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HEALTH SECURITY ACT

OCTOBER 6, 1994.—Ordered to be printed

Mr. MILLER of California, from the Committee on Natural Resources, submitted the following

REPORT

[To accompany H.R. 3600 which on November 20, 1993, was referred jointly to the Committee on Energy and Commerce, to the Committee on Ways and Means, and to the Committee on Education and Labor for consideration of such provisions in titles I, III, VI, VIII, X, and XI and part 1 of subtitle C of title V as fall within its jurisdiction pursuant to clause 1(g) of rule X; and concurrently, for a period ending not later than two weeks after all three committees of joint referral report to the House (or a later time if the Speaker so designates), to the Committee on Armed Services for consideration of subtitle A of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(c) of rule X, to the Committee on Veterans' Affairs for consideration of subtitle B of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(u) of rule X, to the Committee on Post Office and Civil Service for consideration of subtitle C of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(o) of rule X, to the Committee on Natural Resources for consideration of subtitle D of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(n) of rule X, to the Committee on the Judiciary for consideration of subtitles C through F of title V and such other provisions as fall within its jurisdiction pursuant to clause 1(l) of rule X, to the Committee on Rules for consideration of sections 1432(d), 6006(f), and 9102(e)(5), and to the Committee on Government Operations for consideration of subtitle B of title V and section 5401]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3600) to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

83–468

In the table of contents for title VIII, strike the items relating to subtitle D and insert the following:

Strike subtitle D of title VIII and insert the following:

Subtitle D—Indian Health Service

SEC. 8301. POLICY.

Section 3(a) of the Indian Health Care Improvement Act (25 U.S.C. 1602(a)) is amended to read as follows:

"(a) The Congress hereby declares that it is the policy of this Nation, in fulfillment of its unique trust responsibility and legal obligation to the American Indian and Alaska Native people—

"(1) to assure the highest possible health status for American Indians and Alaska Natives,

"(2) to raise the quality of health care delivery to American Indians and Alaska Natives to the highest possible level,

"(3) to provide health care services in a culturally appropriate manner which is consistent with the policies of Indian self-determination and tribal self-governance, and

"(4) to provide all resources necessary to effect paragraphs (1) through (3).".

SEC. 8302. HEALTH SECURITY FOR INDIANS.

(a) IN GENERAL.—The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended by adding at the end the following new title:

"TITLE IX—HEALTH SECURITY FOR INDIANS

"SEC. 901. DEFINITIONS.

"For the purposes of this title:

"(1) GUARANTEED NATIONAL BENEFIT PACKAGE.—The term 'guaranteed national benefit package' has the meaning given such term in section 2(4) of the Health Security Act.

"(2) HEALTH PROGRAM OF THE SERVICE.—The term 'health program of the Service' means a program which provides health services pursuant to the Health Security Act or other applicable laws (including those under the authority of the Indian Self-Determination and Education Assistance Act) through one or more programs operated by the Service, by a health pro-

gram of an Indian tribe, or by an urban Indian program operated pursuant to title V.

"(3) HEALTH PROGRAM OF AN INDIAN TRIBE.—The term 'health program of an Indian tribe' means a program which provides health services pursuant to the Health Security Act or other applicable laws (including those under the authority of the Indian Self-Determination and Education Assistance Act) through a program operated by an Indian tribe, tribal organization, or group of Indian tribes or tribal organizations.

"(4) FAMILY.—The term 'family' has the meaning given such term in section 3 of the Health Security Act.

"(5) QUALIFIED HEALTH PLAN.—The term 'qualified health plan' has the meaning given such term in section 2(9) of the Health Security Act.

"SEC. 902. ELIGIBILITY AND HEALTH SERVICE COVERAGE OF INDIANS.

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—An eligible individual, as defined in section 1001(c) of the Health Security Act, is eligible to enroll in a health program of the Service if the individual is—

"(A) eligible to receive services pursuant to sections 36.1—36.14 of title 42, Code of Federal Regulations (1986);

"(B) an urban Indian; or

"(C) an Indian described in section 809(b).

"(2) ELECTION TO ENROLL OTHER TRIBAL MEMBERS AND FAMILY MEMBERS.—In addition to those individuals made eligible to enroll in a health program of the Service under paragraph (1), a tribe, which operates a health program directly or through a tribal organization, may elect to offer enrollment in a health program of the Service to members of the tribe, regardless of their residency or domicile.

"(b) ENROLLMENT.—

"(1) AUTOMATIC.—An individual described in subsection (a)(1) shall be enrolled automatically in the health program of the Service in which the individual was last an active user unless the individual elects to enroll in another health program of the Service or another qualified health plan or establishes coverage under the medicare part C program (established under part A of title XXIII of the Social Security Act).

"(2) OTHER.—An individual described in subsection (a) who is not automatically enrolled in a health program of the Service under paragraph (1) may enroll in such a program in a manner specified by the Secretary.

"(c) LIMITATION ON CHARGES.—An individual who is eligible under subsection (a) and who enrolls in a health program of the Service shall not be subject to any charge for health insurance premiums, deductibles, copayments, coin-

surance, or any other cost for health services provided under such program.

"(d) REFERENCE TO ENROLLMENT COVERAGE OF FAMILY MEMBERS.—Family members of individuals described in subsection (a) may be eligible under section 906(a) to enroll in a health program of the Service.

"SEC. 903. SUPPLEMENTAL INDIAN HEALTH CARE BENEFITS.

"(a) IN GENERAL.—All individuals described in section 902(a)(1) remain eligible for supplemental Indian health care benefits.

"(b) SUPPLEMENTAL INDIAN HEALTH CARE BENEFITS.—For the purposes of this section, the term 'supplemental Indian health care benefits' means all services provided under the laws administered by the Service which supplement the guaranteed national benefit package. The individual shall not be subject to any charge or any other cost for such benefits.

"(c) MAINTENANCE OF EFFORT.—The Secretary shall ensure that the requirements of section 904(a) do not result in a reduction of the level of supplemental Indian health care benefits provided by or through the Service.

"SEC. 904. QUALIFIED HEALTH PLAN AND HEALTH PROGRAM REQUIREMENTS.

"(a) GUARANTEED NATIONAL BENEFIT PACKAGE.—

"(1) PROVIDED BY DATE CERTAIN.—Notwithstanding any other provision of law, the Secretary shall ensure that the guaranteed national benefit package is provided or assured by all health programs of the Service effective January 1, 1998.

"(2) FACILITIES AND INFRASTRUCTURE.—In carrying out paragraph (1), the Secretary shall—

"(A) subject to section 301, provide for the construction and renovation of hospitals, health centers, health stations, and other facilities of the Service, tribes, tribal organizations, and urban Indian organizations for the purpose of improving and expanding such facilities to enable the delivery of the full array of items and services guaranteed in the guaranteed national benefit package; and

"(B) make planning grants and grants for start-up support to Indian tribes under such terms and conditions as the Secretary determines to assist the Indian tribes in ensuring the delivery of services under the guaranteed national benefit package, including the establishment of computerized information and billing systems for health programs of the Service.

"(3) HEALTH PROFESSIONAL SERVICES.—With respect to any individual enrolled in a health program of the Service, in applying the guaranteed national benefit package the term 'health professional services' in-

cludes health services provided by a traditional Indian healer.

"(b) APPLICABLE REQUIREMENTS OF QUALIFIED HEALTH PLANS.—No requirement of a qualified health plan shall apply to a health program of the Service unless the requirement (1) is established or approved by the Secretary for specific application to health programs of the Service by regulation adopted with the participation of Indian tribes, tribal organizations, and urban Indian organizations, or (2) is negotiated by an Indian tribe pursuant to a self-governance compact. The Secretary shall solicit and consider the views and recommendations provided by Indian tribes, tribal organizations, and urban Indian organizations in establishing or approving requirements that apply to the health programs of the Service.

"(c) CERTIFICATION.—Health programs of the Service shall be exempt from the requirements of any State for qualified health plans, but such programs on and after January 1, 1998, shall be subject to such requirements as may be established or approved by the Secretary pursuant to subsection (b), and the Secretary shall certify from time to time that each health program of the Service is in compliance with the requirements established or approved by the Secretary. Before January 1, 1998, all such health programs shall, to the extent practicable, meet the certification requirements established or approved pursuant to subsection (b).

"(d) ENTITLEMENT STATUS OF PROGRAMS; AGGREGATE FUNDING LEVEL FOR PROGRAM.—

"(1) IN GENERAL.—Subject to paragraph (2), the requirement established in subsection (a) for the Secretary (relating to the guaranteed national benefit package and necessary facilities and infrastructure thereto)—

"(A) is an entitlement in the Secretary on behalf of health programs of the Service (but is not an entitlement in any Indian); and

"(B) constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide the guaranteed national benefit package in the aggregate amounts, and for the fiscal years, specified in paragraph (2).

"(2) AGGREGATE FUNDING LEVELS.—For purposes of paragraph (1)(B), the amounts and fiscal years specified in this paragraph are the following:

"(A) For fiscal year 1995, $650,000,000.

"(B) For fiscal year 1996, $700,000,000.

"(C) For fiscal year 1997, $750,000,000.

"(D) For fiscal year 1998, $800,000,000.

"(E) For fiscal year 1999, $850,000,000.

"(F) For fiscal year 2000, $900,000,000.

"(G) For fiscal year 2001, the amount specified in subparagraph (F) multiplied by an amount equal to the product of—

"(i) 1 plus the general health care inflation factor; and

"(ii) 1 plus the annual percentage increase projected by the Secretary to occur during such year in the populations served by health programs of the Service.

"(H) For fiscal year 2002 and each subsequent fiscal year, the amount determined under this paragraph for the preceding fiscal year multiplied by an amount equal to the product of clauses (i) and (ii) of subparagraph (G) (as such clauses are applied for the fiscal year involved).

"(3) AVAILABILITY OF FUNDS.—The budget authority provided in paragraph (1) is available until expended.

"(e) REDUCTION IN DUPLICATE AUTHORIZATIONS.—To the extent that amounts specified in subsection (d) of this section are made available for the same purposes for which any other provision of law authorizes amounts to be appropriated, the amounts authorized to be appropriated in such other provisions are hereby reduced (but not below zero) by the amounts specified in such subsection.

"SEC. 905. TREATMENT OF TRIBAL GOVERNMENTS AND TRIBAL ORGANIZATIONS AND COVERAGE UNDER HEALTH PROGRAMS OF THE INDIAN HEALTH SERVICE.

"(a) TREATMENT OF HEALTH PROGRAMS AS QUALIFIED HEALTH PLANS.—For purposes of section 59B and chapter 25 of the Internal Revenue Code of 1986, the term 'qualified health plan' includes a health program of the Service.

"(b) NO EMPLOYER CONTRIBUTION REQUIRED OF INDIAN TRIBES AND TRIBAL ORGANIZATIONS FOR COVERED INDIANS.—For purposes of section 3466 of the Internal Revenue Code of 1986, an Indian tribe or tribal organization is not required to make a contribution for coverage in the case of an employee who is described in section 902(a) and is covered under a health program of the Service.

"(c) REQUIREMENTS FOR EMPLOYERS PROVIDING COVERAGE FOR EMPLOYEES.—

"(1) IN GENERAL.—In applying chapter 25 of the Internal Revenue Code of 1986 in the case of an employer with respect to an employee who is covered only under a health program of the Service and not under any other qualified health plan, in order for the employee to be considered to be a qualified employer-covered employee (under section 3466 of such Code), instead of the employer contribution otherwise required under section 3466(d) of such Code, the employer shall pay the Secretary (in a manner specified by the Secretary) an amount equal to the applicable medicare part C premium (as defined in section 3455(c) of such Code).

"(2) DISPOSITION OF FUNDS.—With respect to amounts paid to the Secretary under paragraph (1), the Secretary shall—

"(A) credit payment of such amounts to the appropriation for health programs of the Service, and

"(B) provide for the appropriate distribution of such amounts to such health programs of the Service as provide services to employees and family members with respect to which such payments are made.

"(d) REQUIREMENTS FOR EMPLOYERS PAYING EMPLOYER SHARE OF MEDICARE PART C PREMIUMS.—In applying section 3455 of the Internal Revenue Code of 1986 in the case of an employer with respect to an employee that is subject to a tax under such section, if the employee is covered under a health program of the Service and not under any other qualified health plan—

"(1) the employee shall be treated as a medicare part C covered employee, notwithstanding coverage under such a program;

"(2) the amounts received in the Treasury under section 3455 of the Internal Revenue Code of 1986 that are attributable to paragraph (1) shall be transferred to the credit of the appropriation for health programs of the Service, and not deposited into the Medicare Part C Trust Fund as otherwise provided under section 2324(a)(2) of the Social Security Act; and

"(3) the Secretary shall provide for appropriate distribution of such amounts to health programs of the Service that provide services to employees and family members with respect to which such payments are made.

The amounts transferred and distributed under paragraphs (2) and (3) shall be adjusted, in a manner specified by the Secretary in consultation with the Secretary of the Treasury, to reflect employer credits payable under section 3462 of the Internal Revenue Code of 1986.

"SEC. 906. PROVISION OF HEALTH SERVICES TO NON-ENROLLEES AND NON-INDIANS.

"(a) PROVISION OF HEALTH SERVICES TO NON-INDIAN FAMILY MEMBERS OF INDIANS.—

"(1) IN GENERAL.—A health program of the Service may provide health services to family members of individuals described in section 902(a) if the tribe, tribes, or urban Indian organization served by the program authorizes the provision of services to such family members.

"(2) ENROLLMENT IN A HEALTH PROGRAM OF THE SERVICE.—

"(A) ELECTION.—If a health program of the Service opens enrollment pursuant to paragraph (1) to family members of individuals described in section 902(a), an individual described in that sec-

tion may elect family enrollment in the health program instead of in a qualified health plan.

"(B) ENROLLMENT.—

"(i) IN GENERAL.—An individual who elects family enrollment under subparagraph (A) in a health program of the Service shall enroll in such program.

"(ii) APPLICABLE INDIVIDUAL CHARGES.—The individual who enrolls in such program under clause (i) is not subject to any charge for health insurance premiums, deductibles, copayments, coinsurance, or any other cost for health services provided under such program attributable to the individual, but the family members who are not eligible for a health program of the Service under section 902(a) are subject to all such charges.

"(iii) APPLICABLE EMPLOYER CHARGES.—Employers, except as provided in section 905, are liable for making employer premium payments or contributions as an employer under chapter 25 of the Internal Revenue Code of 1986 in the case of any family member enrolled under this subsection who is not eligible for a health program of the Service under section 902(a).

"(C) BENEFIT MANAGEMENT PROGRAMS.—For purposes of section 4104 of the Health Security Act and section 2324(c) of the Social Security Act—

"(i) the Service may elect to have a health program of the Service treated as a State benefit management program approved under subtitle B of title IV of the Health Security Act, and

"(ii) an Indian tribe which operates a health program of an Indian tribe may elect to have such program treated as such a State benefit management program.

"(b) PROVISION OF HEALTH SERVICES TO OTHER NON-INDIANS.—

"(1) FEDERALLY QUALIFIED HEALTH CENTER STATUS.—For purposes of any provision of the Social Security Act, a health program of the Service shall be deemed to be a federally qualified health center (as described in section 1861(aa)(4) of the Social Security Act) without regard to any applicable requirement of such section.

"(2) ESSENTIAL COMMUNITY PROVIDER.—

"(A) A health program of the Service may elect to provide services as an essential community provider under title XXII of the Social Security Act—

"(i) for eligible individuals described in section 902(a) who are enrolled in a qualified

health plan other than a health program of the Service;

"(ii) for family members described in subsection (a)(1) who are enrolled in a qualified health plan other than a health program of the Service, if the tribe, tribes, or urban Indian organization served by the program authorizes serving such family members; or

"(iii) for other individuals enrolled in a qualified health plan, if (I) the tribe, tribes, or urban Indian organization served by the health program of the Service authorizes serving non-Indians, and (II) tribe, tribes, or urban Indian organization determines that allowing such services to non-Indians will not result in a denial or diminution of health services to any individual described in section 902(a)(1) who is enrolled in a health program of the Service.

"(B) Health programs of the Service electing to provide services as an essential community provider under subparagraph (A) shall be subject only to those requirements as the Secretary may determine.

"(3) CONTRACTS WITH QUALIFIED HEALTH PLANS.—

"(A) IN GENERAL.—A health program of the Service may enter into a contract with a qualified health plan for the provision of health care services to individuals enrolled in such qualified health plan if the authorization and determination specified in subclauses (I) and (II) of paragraph (2)(A)(iii) are made.

"(B) REIMBURSEMENT.—Any contract entered into pursuant to subparagraph (A) shall provide for reimbursement of costs to such program in accordance with those provisions of law applying with respect to essential community providers as determined by the Secretary with tribal consultation and tribal concurrence.

"(4) ENROLLMENT OF NON-INDIANS.—An eligible individual (as defined in section 1001(c) of the Health Security Act) may receive services or enroll in a health program of an Indian tribe if the authorization and determination specified in subclauses (I) and (II) of paragraph (2)(A)(iii) is made.

"(c) REIMBURSEMENT FOR SERVICES PROVIDED TO INDIANS ENROLLED IN OTHER HEALTH PROGRAMS OF THE SERVICE.—A health program of the Service shall reimburse another health program of the Service for services provided to its enrollees in accordance with such reimbursement provisions as the Secretary determines to be appropriate.

"SEC. 907. PAYMENT BY OTHER PAYERS.

"(a) PAYMENT CERTIFICATION.—

"(1) NON-DISCRIMINATION.—A State may not discriminate against or limit any health program of the Service from qualifying as a provider for purposes of reimbursement under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act or for other health programs which receive financial assistance through the Federal Government or a State.

"(2) CONSULTATION.—The Secretary and the States shall consult with the Service and Indian tribes in the development of standards under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act or under any other health program which receives financial assistance through the Federal Government or the State.

"(b) PAYMENT FOR SERVICES PROVIDED BY CONTRACTORS.—Nothing in this title, the Health Security Act, or an amendment made by the Health Security Act shall be construed as affecting any other provision of law, regulation, or judicial or administrative interpretation of law or policy concerning the status of the Service as the payor of last resort (as defined in part 36 of title 42, Code of Federal Regulations) for Indians eligible for contract health services under a health program of the Service.

"SEC. 908. RETENTION OF RECEIPTS.

"(a) IN GENERAL.—Amounts received by a health program of the Service pursuant to this title, the Health Security Act, or an amendment made by the Health Security Act shall remain with and may be expended by the health program of the Service, notwithstanding any other provision of law.

"(b) AVAILABILITY OF FUNDS FOR EXPENDITURE BY A HEALTH PROGRAM OF THE SERVICE.—Amounts available to a health program of the Service pursuant to this section shall be available without further appropriation and shall remain available until expended, first for payments for the delivery of the items and services in the guaranteed national benefit package and then for other services offered by the health program of the Service, including supplemental Indian health care benefits described in section 903.

"(c) CHARACTER OF TRIBAL FUNDS.—Nothing in this section shall be construed to require the appropriation of, or otherwise characterize as Federal funds, amounts available pursuant to this section to Indian tribes, tribal organizations, and urban Indian organizations.

"SEC. 909. LONG-TERM CARE AND COMMUNITY-BASED SERVICES.

"For the purposes of title XXIV of the Social Security Act, an Indian tribe shall be treated as a State, and a health program of an Indian tribe may be treated as a plan, except as follows:

"(1) No Indian or family member of an Indian served through a health program of the Service shall be required to participate in cost sharing.

"(2) In lieu of State licensure standards relating to long-term care, the Secretary shall develop minimum standards for long-term care provided by a health program of the Service.

"SEC. 910. CONSULTATION.

"(a) IN GENERAL.—The Secretary shall consult annually with representatives of Indian tribes, tribal organizations, and urban Indian organizations concerning health care initiatives that affect Indian communities and concerning policy, funding, and administration of health programs of the Service. The Secretary shall solicit and consider the views and recommendations provided by Indian tribes, tribal organizations, and urban Indian organizations in making determinations that affect Indians and Indian tribes.

"(b) NATIONAL INDIAN ADVISORY GROUP.—

"(1) ESTABLISHMENT.—The Secretary shall establish an advisory group to assess and advise the Secretary on all aspects of the administration of health programs of the Service, including development of the budget for such programs.

"(2) COMPOSITION.—The advisory group shall be composed of not less than one representative from each Service area, to be appointed by the Secretary from nominees of tribes and tribal organizations in the respective areas and such other appointees as the Secretary determines appropriate, except that a majority of the members must have been nominated by a tribe or tribal organization.

"(3) REPORTS.—The advisory group shall submit such reports as may be necessary to the Congress.

"SEC. 911. CAPITAL INVESTMENT AND TRANSITIONAL ASSISTANCE.

"(a) CAPITAL FINANCING.—

"(1) ESTABLISHMENT OF PROGRAM.—There is established in the Service a revolving loan program. Under the program, the Secretary, acting through the Service, shall provide guaranteed loans from the amounts appropriated pursuant to paragraph (2) to health programs of an Indian tribe. Such guaranteed loans shall be subject to such terms and conditions as the Secretary may prescribe to improve and expand health care facilities to enable the delivery of the full array of items and services guaranteed in the guaranteed national benefit package. Nothing in this part shall prevent such health programs from obtaining loans and loan guarantees pursuant title XXIV of the Social Security Act.

"(2) AGGREGATE CAPITAL FINANCING FUNDING LEVELS.—For purposes of paragraph (1), there is author-

ized to be appropriated $500,000,000 for each of the fiscal years 1995 through 1997.

"(b) TRANSITIONAL ASSISTANCE.—There is authorized to be appropriated $200,000,000 for each of the fiscal years 1995 through 2000 to provide transitional assistance to the Service and to Indian tribes, tribal organizations, and urban Indian organizations to provide the guaranteed national benefit package.

"SEC. 912. RISK SHARING.

"Health programs of the Service may aggregate fund receipts (including from contracts and subcontracts) for the purposes of sharing risk (including assumed partial risk). The Service shall establish, at the request of health programs of the Service, a shared risk or reinsurance pool. The fund receipts may be used only as provided by the participants in the shared risk or reinsurance pool.

"SEC. 913. EQUAL ACCESS TO OTHER FUNDS.

"Notwithstanding any other provision of law, health programs of the Service shall be entitled to receive any funds made available under the Health Security Act, or to States, qualified health plans, or other eligible entities under any provision of the Health Security Act, for capacity building, including construction, for the purposes for which such funds are made available. Receipt of funds under this section shall not offset funds otherwise available under this title.

"SEC. 914. ELIGIBILITY FOR REIMBURSEMENT.

"(a) IN GENERAL.—Notwithstanding any other provision of Federal law, the statutes of any State, or waivers granted by the Secretary as authorized by titles XI or XIX of the Social Security Act, a health program of the Service shall be eligible for reimbursement for medical assistance provided to an individual eligible under title XIX of the Social Security Act. The health program of the Service shall be eligible for reimbursement for reasonable costs under title XIX of the Social Security Act, except that such reimbursement payments shall not be less than that provided to a certified provider under the State plan.

"(b) NO STATE DENIAL.—A State may not deny payment to a health program of the Service on grounds that the health program does not provide the entire range of services required under the State plan.

"SEC. 915. TREATMENT OF INDIAN HEALTH PROGRAMS AND FACILITIES UNDER MEDICARE AND MEDICAID.

"(a) OPTION OF ENROLLMENT IN INDIAN HEALTH PROGRAMS.—A State may not require an individual described in section 902(a) to enroll in any health program established by the State pursuant to the Health Security Act or the Social Security Act unless the State provides the individual with the option to enroll in a health program of the Service.

"(b) PAYMENTS ON BEHALF OF CERTAIN MEDICARE-ELIGIBLE INDIVIDUALS.—To the extent that the Secretary makes

any payments under the Health Security Act or the Social Security Act to regional alliances or private health plans on behalf of medicare beneficiaries enrolled in such private health plans, the Secretary shall make payments to a health program of the Service on behalf of medicare beneficiaries who are described in section 902(a) and enrolled in a health program of the Service.

"(c) COVERAGE OF SERVICES PROVIDED TO MEDICARE BENEFICIARIES BY HEALTH PROGRAMS OF THE INDIAN HEALTH SERVICE.—

"(1) TREATMENT AS ELIGIBLE ORGANIZATIONS.—A health program of the Service may elect to be considered an eligible organization for purposes of section 1876 of the Social Security Act with respect to medicare beneficiaries who are individuals described in section 902(a).

"(2) TREATMENT AS PROVIDERS OF SERVICES.—A health care facility of a health program of the Service shall be considered a provider of services under section 1861(u) of the Social Security Act with respect to medicare beneficiaries who are individuals described in section 902(a).

"(3) EFFECTIVE DATE.—This subsection shall take effect on January 1, 1995, and shall apply to items and services furnished on or after such date.

"(d) EXPANDING THE REIMBURSEMENT TO STATES FOR HEALTH PROGRAMS OF THE INDIAN HEALTH SERVICE.—For purposes of determining the amount of payment made to a State under section 1903(a) of the Social Security Act with respect to any services furnished on or after January 1, 1995, under title XIX of such Act which are received through a health program of the Indian Health Service or any program or facility owned or operated by the Indian Health Service, an Indian tribe, or a tribal organization, without regard to any limitation in a State plan of medical assistance otherwise applicable under such title, the Federal medical assistance percentage shall be 100 percent.

"SEC. 916. TREATMENT OF INDIANS ENTITLED TO VETERANS BENEFITS.

"(a) IN GENERAL.—In the case of an individual described in section 902(a) who is enrolled in a health program of the Service and is a veteran who receives items and services in the guaranteed national benefit package through the Secretary of Veterans' Affairs, the Service shall not be required to provide reimbursement to such Secretary for such items and services.

"(b) COOPERATIVE AGREEMENTS.—The Secretary shall enter into a cooperative service and payment agreement with the Secretary of Veterans' Affairs to assure that veterans who are described in section 902(a) and also eligible for enrollment in a health plan operated by the Department of Veterans' Affairs are entitled to fully participate in either health plan without payment premiums, copayments, deductibles, or coinsurance.

"(c) SURVEY OF HEALTH SERVICES AVAILABLE TO INDIAN VETERANS.—

"(1) IN GENERAL.—The Secretary of the Department of Health and Human Services, in consultation with the Secretary of the Department of Veterans Affairs, Indian tribes and tribal organizations, shall conduct a survey to assess the availability and accessibility of health care services for Indian veterans residing on Indian reservations.

"(2) REPORT.—Not later than 180 days after the date of enactment of this title, the Secretary of the Department of Health and Human Services shall submit a report to the Congress, including recommendations, concerning the survey conducted under paragraph (1).

"SEC. 917. PUBLIC HEALTH INITIATIVES.

"(a) COMPREHENSIVE MANAGED MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAMS.—For purposes of subtitle C of title IV of the Health Security Act and the Social Security Act—

"(1) an Indian tribe or tribal organization may establish a comprehensive managed mental health and substance abuse program under such subtitle with respect to individuals described in section 902(a) and family members in the same manner as a State may establish such a program with respect to eligible individuals who are residents of the State, and

"(2) an Indian tribe or tribal organization operating such a program may receive payment with respect to services provided under the program in the same manner as a State operating such a program.

"(b) HEALTH CARE WORKFORCE PROVISIONS.—

"(1) MEDICAL RESIDENCY TRAINING PROGRAMS.—In carrying out the provisions of the Health Security Act relating to medical residency training programs with respect to health programs of the Service, the Secretary shall develop training sites for medical residency training programs in primary care in health programs of the Service.

"(2) ALLOCATIONS AMONG MEDICAL SPECIALTIES.—In making allocations among the medical specialities under subtitle A of title VII of the Health Security Act—

"(A) the Secretary shall establish a priority under the National Health Care Workforce Plan under such subtitle in favor of programs training participants in primary care for American Indians, Alaska Natives, and other underserved populations;

"(B) the Secretary shall consider the number of communities in which the ratio of physicians to the corresponding population is less than 5 per 100,000 in designating the annual number of specialty positions; and

"(C) in making allocations for medical specialties under such Plan among approved medical residency training programs, the Secretary shall consider (among other factors) whether a program has an increase in the recruitment and retention of American Indian and Alaska Native students and students of other medically underserved populations.

"(3) MEDICAL SCHOOL PAYMENTS.—In making payments to medical schools described in section 7102(c)(1) of the Health Security Act, the Secretary shall give priority to medical schools with programs to recruit and retain American Indian and Alaska Native students.

"(c) CAPITAL FINANCING ASSISTANCE.—For purposes of the capital financing assistance program established under title XXIV of the Social Security Act (as added by section 7203 of the Health Security Act)—

"(1) a facility of a health program of the Service shall be eligible to receive such financing assistance in the same manner as a hospital described in section 2401(b)(1) of such Act;

"(2) not less than 3 percent of the amounts available for grants for urgent capital needs under part E of such title shall be reserved for facilities of health programs of the Service;

"(3) the waiver provisions of section 2413(c) of such Act shall take into account the financial interests of health programs of the Service when exercised with respect to any such health program;

"(4) Indian tribes shall not be required to pledge tribal lands to finance health facility construction or rehabilitation; and

"(5) in the case of health programs of the Service, the Secretary shall consult with the Secretary of the Interior in determining the best interests of the affected tribes and the United States.

"(d) LEAD PAINT ABATEMENT.—For purposes of making allotments for lead paint abatement activities under subtitle D of title VII of the Health Security Act—

"(1) an Indian tribe shall be considered an eligible public entity under section 7301(b) of such Act, and

"(2) not less than 3 percent of the amounts available under such subtitle shall be reserved for Indian tribes.

"(e) MANAGED CARE PLAN GRANTS.—For purposes of grants for managed care plans under subtitle E of title VII of the Health Security Act, an Indian tribe or tribal organization shall be considered a public organization.

"(f) EMERGENCY MEDICAL SERVICES.—For purposes of grants under subtitle F of title VII of the Health Security Act, an Indian tribe or tribal organization shall be considered to be a State meeting the applicable requirements of such subtitle.

"(g) PRIORITIES IN BIOMEDICAL RESEARCH.—In establishing priorities for biomedical research under section 7601(c) of the Health Security Act, the Secretary shall give priority to conducting and supporting research based on recommendations made by epidemiology centers established under section 214.".

(b) HEALTH CARE FACILITIES.—

(1) MEDICARE.—Section 401 of the Indian Health Care Improvement Act (25 U.S.C. 1641) is amended—

(A) in subsection (a)—

(i) by striking "facility of the Service (whether operated by the Service or by an Indian tribe or tribal organization pursuant to a contract under the Indian Self-Determination Act)" and inserting "of a health program of the Service (as defined in section 901(2))", and

(ii) by adding at the end the following: "For purposes of section 1880 of the Social Security Act, any reference in such section to a 'hospital' or a 'skilled nursing facility' shall be considered to be a reference to any facility of a health program of the Service."; and

(B) by adding at the end the following new subsection:

"(c) For purposes of title XVIII of the Social Security Act—

"(1) a facility of a health program of the Service may elect to be treated as a rural primary care hospital, and a State establishing a rural health network under section 1820 of such Act in the service area of the facility shall be required to include the facility in such rural health network;

"(2) an Indian tribe or tribal consortium shall be eligible to receive funds under section 1821 of such Act for planning and implementing a community health plan in the same manner as a State under such section; and

"(3) a facility of a health program of the Service shall be eligible to receive a grant under section 1821 of such Act for carrying out activities described in subsection (d)(2)(D) of such section in the same manner as a hospital, facility, or consortia of hospitals or facilities.".

(2) MEDICAID.—Section 402 of the Indian Health Care Improvement Act (25 U.S.C. 1642) is amended—

(A) in the first sentence of subsection (a)—

(i) by striking "facility of the Service" and inserting "health program of the Service (as defined in section 901(2))"; and

(ii) by striking "such Service" and inserting "such health programs of the Service";

(B) in the second sentence of subsection (a), by striking "the facilities of the Service" and inserting "such health programs of the Service"; and

(C) in subsection (b), by striking "such facility" and inserting "such health program of the Service".

(c) NATIONAL HEALTH SERVICE CORPS.—Section 812 of such Act (25 U.S.C. 1680b) is amended—

(1) by inserting "(a)" after "812.", and

(2) by adding at the end the following new subsection:

"(b) In addition to placement of National Health Service Corps providers, health programs of the Service shall have direct access to the National Health Service Corps resources. Allocations of personnel of the National Health Service Corps to Indian tribes operating health programs pursuant to the Indian Self-Determination Act does not render such health programs ineligible for any other resources.".

(d) PAYMENT FOR SERVICES PROVIDED BY INDIAN HEALTH SERVICE PROGRAMS.—Except as provided in subsection (b), nothing in this title or the amendments made by this title shall be construed as amending or modifying section 206, 401, or 402 of the Indian Health Care Improvement Act (relating to payments on behalf of Indians for health services from other Federal programs or from other third party payers).

SEC. 8303. RULES OF CONSTRUCTION.

Unless otherwise provided by this Act or an amendment made by this Act, no part of this Act or any such amendment shall be construed to rescind or otherwise modify any obligations, findings, or purposes contained in the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) and in the Indian Self-Determination and Education Assistance Act. This Act and the amendments made by this Act shall be construed liberally for the benefit of Indians and any ambiguities shall be resolved in the favor of Indians and Indian tribes.

SEC. 8304. PROHIBITION ON REDUCTIONS OF FULL-TIME EQUIVALENT POSITIONS IN THE INDIAN HEALTH SERVICE.

(a) PROHIBITION.—Notwithstanding any other provision of law and until the health status objectives enumerated in section 3(b) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) are obtained, as determined by the Secretary, no reduction may be made in the number of full-time equivalent positions in the Indian Health Service from the number of such positions on September 30, 1994.

(b) EXEMPTION.—During the period that the prohibition specified in subsection (a) is effective, no restriction imposed by law on hiring by executive agencies for the purpose of achieving workforce reductions shall apply to the Indian Health Service, including section 5 of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 3101 note).

(c) RULE OF CONSTRUCTION.—No law may be construed as suspending or modifying this section unless such law specifically refers to or amends this section.

Purpose

The purpose of H.R. 3600 is to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

Background

H.R. 3600, the National Health Security Act was introduced by Congressman Gephardt on November 20, 1993. The National Health Security Act represents an attempt to restructure the health care system across the nation. The bill creates a network of regional health alliances which would provide health care coverage to consumers. States would determine the number of regional health alliances in their state. These regional alliances would collect employer premiums and distribute the funds to health providers within the State. The Act provides that employers will pay up to 80% of the cost of insurance premiums. The Act also provides that no employer will be required to pay more than 7.9% of its payroll in health insurance premiums. The Federal government will pay for retired employees and will subsidize costs for low wage employees and unemployed individuals. The Act leaves Medicare and Medicaid largely intact.

The legislation provides that no consumer would be required to contribute more than 3.9% of his or her salary. It also provides that consumers are responsible for making copayments and paying premium deductibles. H.R. 3600 creates a National Health Board which will have 7 members who are appointed by the President and confirmed by the Senate. The National Health Board is responsible for regulating health insurance premiums, setting national quality standards, and determining what benefits are included in the comprehensive benefit package. The comprehensive benefit package includes the following services: inpatient and outpatient services, ambulatory care, clinical preventive services, comprehensive impatient mental health services and substance abuse counseling, prenatal care and family planning services, hospice care and home health care, ambulance services, outpatient rehabilitation services, laboratory and diagnostic services, and dental services for children. While States will have to offer the comprehensive benefit package to all citizens by January 1, 1998, the Indian Health Services will have until January 1, 1999 to provide the level of health care required under the comprehensive benefit package.

National Health Care Reform and Indian Health Care

The National Health Security Act will provide American Indian and Alaska Natives the opportunity to choose between a health plan offered by the Indian Health Service or a regional health alliance. American Indians and Alaska Natives will be eligible for the same level of coverage as any other American. If an eligible Indian elects to receive services from an Indian Health Service or tribal health provider, then they are entitled to services under the comprehensive benefit package at no charge. If an eligible Indian elects to receive services from a regional health alliance, then they must

pay any of the costs or copayments required under the plan. All Indians would be eligible to receive supplemental health services from the Indian Health Service regardless of where they are enrolled. Supplemental services are those services and programs currently administered by the Indian Health Services that are not included in the comprehensive benefit package. These services include adult dental care, community health representatives, public health nursing, environmental health services, and water and sanitation facilities. Under the Act, Indian Health Service and tribal health programs would be able to provide health care to no-eligible family members of eligible Indians. Non-eligible family members will be responsible for any deductibles, copayments, and coinsurance charges. In addition, at the election of an Indian Health Service or tribal program, the program may be treated as an essential community provider by a regional health alliance and provide health care to non-Indians so long as services to Indians are not diminished.

The Act requires Indian Health Service or tribal health programs to provide the services in the comprehensive benefit package by January 1, 1999. This deadline is one year later than the deadline for the rest of the country. The Secretary will develop certification requirements for Indian Health Service and tribal health programs which each Indian program must meet by January 1, 1999. The Act authorizes $40 million in FY 1995, $180 million in FY 1996, and $200 million each year thereafter to enable the Indian Health Service to provide all the health services required under the comprehensive benefit package. These funds shall be used to construct and renovate Indian Health Service and tribal facilities and to provide basic services under the comprehensive benefit package. The Act also authorizes a revolving loan fund to help finance costs of construction or renovation of Indian health facilities. Finally, the Act authorizes $180 million in FY 1995, $200 million in FY 1996, and such sums as are necessary for each year thereafter to provide supplemental services through the Indian Health Service.

COMMITTEE ON WAYS AND MEANS SUBSTITUTE

On Thursday, June 30th, the Committee on Ways and Means Committee reported out H.R. 3600, the Health Security Act of 1993, with an amendment in the nature of a substitute. In general, the bill reported by the Ways and Means Committee provides for universal health care coverage, employer mandates, and national health cost controls. The Ways and Means Committee Substitute would entitle individuals to a guaranteed national health benefit package which would be made available on January 1, 1998. Most individuals would receive health care through private health plans offered through their employers. Other individuals, generally low-income or part-time workers, unemployed individuals, and AFDC or SSI recipients, would be permitted to receive coverage through a new Federal program entitled Medicare Part C. In general, an individual who is not enrolled in a private health plan would be enrolled in Medicare Part C. Certain individuals would not have to contribute Medicare Part C premiums, including dependent children, U.S. citizens living abroad, nonresident aliens, active duty

military personnel, disabled veterans, and Medicare Part A recipients.

Under the Ways and Means Committee Substitute, Employers would be responsible for paying at least 80% of the cost of the national guaranteed benefit package. Employees would be responsible for paying the rest, which would be withheld from their pay. Individuals remain free to elect plans offering greater coverage and employers remain free to pay for more than 80% of the cost of their employees' insurance premiums.

Certain individuals would have their premium obligations reduced. Individuals with family incomes below a threshold amount (100% of poverty) would have no obligation to pay the individual premium. Partial premium assistance would be extended to individuals with incomes between 100% of poverty and 200% of poverty beginning in 1998 through 2000. In 2001 and 2002, the threshold income level would be raised to 220% of poverty and in 2003 and each year thereafter, it would be increased to 240% of poverty.

The Ways and Means Committee Substitute would allow employers with more than 100 workers to self-insure. Those employers classified as large firm employers would have to offer insurance to their employees by January 1, 1996. Thus, large firm employers could offer insurance coverage through private health plans, a self-insured plan, or a qualified State plan in states which elect to operate their own health care benefit plans.

Small firm employers, those employers with under 100 employees would have to offer employees coverage through either private health plans, or Medicare Part C beginning January 1, 1998. In general, an employer could not offer both. Employers with 50 or less employees could be eligible, depending on their employees' wage levels, for tax credits which would reduce their liability for health insurance premiums.

Under the Ways and Means Committee Substitute, the guaranteed national benefit package would include all of the benefits currently offered through Medicare Parts A and B. Medicare Part A benefits include inpatient hospital care, 100 days of skilled nursing facility care following a hospital visit, home health services and hospice care. Part B coverage includes physician services, outpatient hospital services, laboratory services, durable medical equipment, physical therapy, x-rays, and necessary ambulance services. Medicare Part B does not include dental services, eye exams and glasses, routine physical exams, cosmetic surgery, and private nursing. The new Medicare Part C improves upon current Medicare benefits by lifting certain Medicare restrictions and by adding newborn services, well-baby services, pregnancy related services, family-planning services, drugs and devices, outpatient prescription drugs, mental health and substance abuse counselling, and preventive health services.

Medicare Part C will also include a supplemental or wrap-around benefits package for low income individuals with a family income of up to 100% of the poverty level, for these individuals all deductibles and co-payments would be waived. Early and Periodic Screening, Diagnostic Treatment services would be covered for children up to 18, and vision and hearing care including eyeglasses and hearing aids. The wrap-around package would also be made

available to others with incomes up to 200% of the poverty level, including pregnant women, children up to 18, and AFDC and SSI recipients.

Under the Ways and Means Committee Substitute, there is established a new long-term care program to provide home and community based services to severely disabled individuals regardless of age or income. Under the terms of the Substitute, insurance could be sold by private carriers to individuals directly or through small and large firm employers, associations, or voluntary regional health alliances. Health insurance would be guaranteed renewable and plans could not deny or limit coverage based on preexisting conditions. Insurance plans sold through individual, small firm employer, association, and alliance markets must be community rated.

TRIBAL ISSUES IN NATIONAL HEALTH CARE REFORM

The Subcommittee on Native American Affairs held hearings on Subtitle D of Title VIII of H.R. 3600 on February 28 and May 3, 1994. At these hearings, Indian tribes presented testimony before the Subcommittee which expressed concern that the Indian Health Services does not have the resources necessary to provide the comprehensive benefit package to all Indian beneficiaries. Tribal witnesses raised several concerns regarding H.R. 3600, the National Health Security Act. Indian tribes have expressed concern that the bill does not commit sufficient resources to ensure that the Indian Health Service can provide the full range of services guaranteed under the comprehensive benefit package. Tribes are also concerned that the bill does not include sufficient resources to bring Indian Health Service and health facilities up to certification standards.

In estimates provided to the Subcommittee, the Indian Health Service will need $4.1 billion to build the capacity necessary to provide all the services under the comprehensive benefit package to all Indian beneficiaries. It has also been estimated that it will cost $3.4 billion to bring all Indian Health Service and tribal health facilities up to the certification requirements established under the bill. Finally, the current construction backlog for tribal wastewater and sanitation facilities is approximately $1.6 billion. At the request of the Subcommittee, the Indian Health Service prepared estimates on the annual cost to provide the comprehensive benefit package to all eligible Indians. Based on an assumed cost of $1,256 per beneficiary, the Indian Health Service estimates that it will cost $1.5 billion annually to provide the comprehensive benefit package. The Indian Health Service estimated that the annual cost for the comprehensive benefit package could be as high as $2.7 billion, based on an assumed cost of $2,300 per beneficiary. The current per capita expenditure for health care for American Indians and Alaska Natives by the Indian Health Service is half the national average. There is concern among the tribes that the Indian Health Service will be forced to transfer significant resources from supplemental services (adult dental care, community health representatives, public health nursing, environmental health services, and water and sanitation facilities) to meet the mandates under the comprehensive benefit package as established in H.R. 3600, the National Health Security Act.

In the Subcommittee hearings, Indian tribes identified a number of specific issues concerning H.R. 3600 as introduced. Tribal witnesses recommended an amendment to H.R. 3600 which would ensure that all Indians eligible for services through the Indian Health Service are automatically enrolled in the Indian Health Service as a qualified health plan. Indian tribes were concerned that the individual enrollment requirements of H.R. 3600 would pose a hardship on elderly individuals and families living on remote reservations and may result in gaps in coverage for many Indian individuals. Tribal witnesses also testified in support of amendments which would establish a mechanism for risk adjustment for a variety of factors affecting the cost of health care coverage on Indian reservations. Indian tribes have proposed language to establish a funding guarantee that programs of the Indian Health Service would receive the full per capita cost of delivering the comprehensive benefit package to each Indian enrolled in the Indian Health Service as a qualified plan. Testimony received from tribal witnesses stressed the need for assured funding for the Indian Health Service to provide the comprehensive benefit package and to address chronic shortfalls in funding for the Indian Health Service.

Indian tribes also testified that health programs and health plans which are operated by the Indian Health Service, Indian tribes, tribal organizations, and urban Indian organizations should have the option of serving non-eligible persons, including non-Indians, at their option. These witnesses testified that many Indian health programs would like to provide services to non-eligible individuals in order to be more competitive with other providers in the open market so long as it did not result in a diminution of services to eligible Indians. In addition, many tribes expressed an interest in being treated as essential community providers under H.R. 3600. Tribal witnesses did express concern that the legislation should ensure that the state health plans and regional health alliances do not discriminate against Indian tribes treated as essential community providers under the Act. Indians tribes also testified in support of amendments which would provide transitional assistance to health programs operated by the Indian Health Service, Indian tribes, tribal organizations, and urban Indian organizations. Tribal witnesses were concerned that the legislation did not authorize funding for Indian Health programs to make the transition from the current level of health services available for the Indian Health Service to the health services which are mandated as part of the comprehensive benefit package. Finally, Indian tribes requested an amendment to H.R. 3600 which would ensure that funding levels currently provided for supplemental services not be reduced. Supplemental services are those services provided by the Indian Health Service and Indian tribes which fall outside the comprehensive benefit package. Many of these "supplemental services" provided by the Indian Health Service have been authorized under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) and the Snyder Act (25 U.S.C. 13). Tribal witnesses expressed concern that funding for supplemental services should not be diverted to assist the Indian Health Service in meeting the mandate of H.R. 3600 to provide the comprehensive benefit package.

Indian tribes are concerned that the effort to reform the Nation's health care delivery system may turn into an effort to limit the Federal government trust obligations to American Indians and Alaska Natives. Indian tribes have been receiving a broad range of services from the Indian Health Service pursuant to congressional mandates. These services go far beyond the range of services currently contemplated in the comprehensive benefit package under H.R. 3600. The Committee believes it is critical to ensure that Indians can participate in the programs established under national health care reform without losing sight of this Nation's trust obligations to provide health care to American Indians and Alaska Natives. These obligations have been well defined by the Congress through the enactment of the Indian Health Care Improvement Act and the Indian Health Amendments of 1992 (25 U.S.C. 1601 et seq.).

Committee Amendment

The Committee Amendment build on the Ways and Means substitute to H.R. 3600, the Health Security Act. The Committee Amendment provides that it shall be the policy of the Nation to assure the highest possible health status for American Indians and Alaska Natives and raise the quality of health care delivery to the highest possible levels, in fulfillment of its unique trust responsibility and legal obligation to American Indians and Alaska Natives. The Committee has been disturbed by reports that the Department of Health and Human Services and the Indian Health Service view the Federal government's obligations to American Indians and Alaska Natives as merely a moral one. The legislative history of the Indian Health Service is replete with references to the Federal government's legal obligations to provide health care to American Indians and Alaska Natives. On its face, the statutory language establishes a legal obligation to provide health care to American Indians and Alaska Natives. Congress has long recognized this Nation's trust responsibility to American Indians and Alaska Natives in treaties and statutes, which includes the obligation to provide health care to American Indians and Alaska Natives. In the Amendment, the Committee makes clear the Congress recognizes and reaffirms the Federal government's trust responsibility to provide health care to American Indians and Alaska Natives. The Committee intends this provision to settle once and for all the question of the Federal trust responsibility to provide health care to American Indians and Alaska Natives.

The Amendment provides that all eligible Indians will be able to enroll in health programs of the Indian Health Service as qualified health plans if they choose. An eligible Indian is defined as those individuals currently eligible to receive services from the Indian Health Service. The Committee Amendment also provides that any eligible Indian shall be automatically enrolled in the Indian health program in which the person was last an active user unless they elect to enroll in a different Indian health program or a private health plan or the Medicare part C program. The Committee intends the individual to retain the option to enroll in the health plan of their choice. Any individual, who is eligible for IHS services and does not make an election, shall be automatically enrolled in

an Indian health program. The Committee intends the enrollment provisions to include enrollment in health programs operated by the Indian Health Service, an Indian tribe, a tribal organization, or urban Indian organization. Each of these categories of health programs are included under the term "health program of the Service" which is used throughout the bill.

The Committee Amendment also authorizes health programs of the Service to enroll or provide services to non-eligible individuals. In order to enroll or offer services to non-eligible individuals, a tribe must authorize a health program to provide services to non-eligible individuals and the tribe must determine that such services will not result in a diminution of services to eligible Indians. The Amendment allows Indian health programs to serve non-eligible family members if such services have been authorized by the Indian tribe. A health program may provide services to non-eligible family members without a tribal determination that the provision of such services will not result in a reduction in services to eligible Indians. The Committee intends these provisions to allow Indian families to be served at the local health program without hardship and without having to enroll in different health plans. The provisions relating to non-eligible family members is intended to reflect existing practices on most reservations which provide services to non-eligible family members. The Committee intends the provision relating to enrolling non-eligible individuals or non-Indians to confer a greater degree of flexibility to Indian health programs to expand their patient base and compete with other health plans or service providers on the open market.

The Committee Amendment includes language to make certain that those individuals who are enrolled in a health program of the Services, do not have to pay for their health care. The Amendment exempts eligible individuals enrolled in the Indian Health Service from payment of any charge for health insurance premiums, deductibles, copayments, coinsurance, or any other costs for the provision of health services by a program of the Service. The Committee recognizes and reaffirms the Federal government's trust responsibility to provide health care to American Indians and Alaska Natives. The responsibility to provide health care services to eligible Indians through the Indian Health Service without charge has been a longstanding policy of the Congress and the Federal government. Congress has reaffirmed these responsibilities in treaties and statutes for the provision of health services to Indians by the Indian Health Service without charge. The Committee reaffirms its commitment to this policy.

The Amendment includes provisions to ensure that the Indian Health Service will continue to provide supplemental services to eligible Indians. The Committee language ensures that eligible Indians will receive supplemental services from the Indian Health Service without charge. Supplemental services are defined as those services currently provided by the Indian Health Service that are not included under the Guaranteed National Benefit Package. Supplemental services include adult dental care, community health representatives, public health nursing, environmental health services, and water and sanitation facilities. These provisions ensure that regardless of whether an eligible Indian is enrolled in a health

plan of the Indian Health Service or a private health plan or Medicare Part C, that individual remains eligible to receive supplemental services from the Indian Health Service without charge, In addition, the Committee Amendment includes language to ensure that the provision of the Guaranteed National Benefits Package will not result in a reduction in the level of supplemental benefits provided by the Service. The Committee is concerned that the Indian Health Service may reduce the level of funds available for the provision of supplemental benefits in order to provide the Guaranteed National Benefits Package. The Committee does not intend the other mandates of this Act to result in a shift in resources from supplemental services. The Committee intends the programs of the Indian Health Services authorized under the Indian Health Care Improvement Act and the Indian Health Amendments of 1992 and other authorities of law shall not be adversely impacted by the mandates under this bill. The Committee intends the Indian Health Service to continue to carry out its responsibilities under these laws. The Committee recognizes that the Federal government's trust responsibility to provide health services to Indians extends beyond the services enumerated in the Guaranteed National Benefit Package and these responsibilities remain an important obligation of this Nation.

The Secretary shall ensure that the Guaranteed National Benefit Package shall be provided by all programs of the Indian Health Service by January 1, 1998. The Committee Amendment provides that no requirement of a qualified health plan shall apply to an Indian health program unless such requirement is established by the Secretary after consultation with Indians tribes, tribal organizations, and urban Indian organizations. It also includes provisions which exempt Indian health programs from any State certification requirements for qualified health plans. The Secretary shall be responsible for the certification of Indian health programs to ensure that these programs meet such requirements as the Secretary may establish. The Committee intends these provisions to reinforce the government to government relationship between Indian tribes and the Federal government. The Committee strongly believes that States should have no role in the regulation of Indian health programs. It is the firm belief of the Committee that the regulation of Indian health programs is a Federal responsibility and should be carried out by the Secretary in consultation with Indian tribes.

The Amendment would create an entitlement in the Secretary on behalf of health programs of the Indian Health Service in order to ensure that such health programs can provide the full range of benefits in the Guaranteed National Benefit Package. The Committee Amendment makes clear that the entitlement is in the Secretary and not in any individual Indian. The entitlement created under this provision begins in fiscal year 1995 and is capped at $650 million. The entitlement is increased each year by $50 million until the year 2000 when it is funded at $900 million. Each year thereafter the amount of the entitlement is adjusted for inflation. Funds provided under this section may be used to provide the Guaranteed National Benefits Package, including the development of the necessary infrastructure and facilities.

The Committee intends this provision to provide an assured level of funding for the provision of the Guaranteed National Benefits Package. The Committee Amendment also includes language to ensure that the entitlement provisions do not result in duplicate authorizations. The Committee intends the entitlement created under this section to offset existing authorizations to the extent that they are used for the same purposes. The Committee recognizes that the health care needs of Indian country far exceeds the amount of funds available in any fiscal year. For that reason, the Committee intends the entitlement to supplement funds available under authorizations contained in the Indian Health Care Improvement Act, the Indian Health Amendments of 1992 (25 U.S.C. 1601 et seq.) and under other laws. The Committee does not intend this provision to operate to reduce funding available to provide health care to American Indians and Alaska Natives. Rather, the Committee intends this provision to stabilize funding for the Guaranteed National Benefit Package and allow other discretionary funds to be used for other purposes authorized in the law. Because we have not met the Indian Health Status objectives it is important that funds made available under this section supplement funds authorized under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) until such time as these objectives are realized. The Committee shares the concerns expressed by many Indian tribes that the Indian Health Service will not be able to provide the Guaranteed National Benefit Package. This section of the Committee Amendment, in conjunction with the sections involving supplemental services, is intended to safeguard funding for supplemental services while providing stable direct funding for the guaranteed national benefits package.

The Committee Amendment treats health programs of the Service as qualified health plans for purposes of 59B and Chapter 25 of the Internal Revenue Code of 1986. This would allow employers to offer health coverage in a health program of the Service to eligible Indian employees. Indians who enroll in health programs of the Service will not be obligated to make any individual premium or Medicare Part C payments. Indian tribes and tribal organizations will not be required to make employer premium contributions or Medicare Part C payments on behalf of Indian employees who enroll in a health program of the Service. The Amendment provides that employer premiums for eligible Indians enrolled in a health program of the Service shall be calculated in an amount equal to the applicable Medicare Part C premium. Payment of the employer premiums shall be made to the Secretary and such payments shall be credited to the health program of the Service in which individuals are enrolled. The Committee intends these provisions to facilitate the collection of employer payments by the Secretary for services provided by health programs of the Service. The Committee further intends these payments to be credited to the local program which provided the benefits. This provision will enable local health programs to recapture employer premiums for service recipients.

The Amendment also provides that individuals enrolled in a health program of the Service shall not be subject to an individual Medicare Part C premium. It also provides that employers participating in Medicare Part C shall be responsible for Medicare Part

C payments for any employers who are enrolled in a health program of the Service. The Amendment further provides that any Medicare Part C premiums made on behalf of such individuals shall not be deposited in the Medicare Part C Trust Fund, rather these amounts shall be the health program of the Service in which the individual is enrolled. The Committee intends this section to operate in a manner that ensures local health programs recaptures both employer health insurance premiums and Medicare Part C premiums. The Committee intends this additional revenue to assist individual health programs of the Service to maintain accreditation and to meet the standards promulgated pursuant to the Health Security Act. The Committee does not intend this provision to be used to offset funds appropriated for the health program of the Service, rather these funds should supplement funds appropriated for the health program of the Service.

Under the Amendment, health programs of the Service will be deemed to be federally qualified health centers and thus qualify for full reimbursement for services provided to individuals enrolled in other health plans. The Amendment also authorizes programs of the Service to be treated as essential community provider under Title XXII of the Social Security Act. The Amendment allows programs to be treated as an essential community provider for eligible Indians members of their family, and other individuals enrolled in a health program of Service. The Amendment also provides that a health program of Service may enter into a contract with a qualified health plan for the provision of health care services.

The Committee Amendment prohibits a State discriminating against any health program of the Service for purposes of reimbursement under the Medicare or Medicaid programs. It also requires the Secretary and the States to consult with the Indian Health Service and Indian tribes in the development of standards under the Medicare and Medicaid programs. The Committee Amendment reaffirms the status of the Indian Health Service as the payor of last resort, as set out in part 36 of title 42 of the Code of Federal Regulations. The Committee Amendment includes a provision to ensure that receipts collected by health programs of the Service shall be retained by the local program. It is the intent of Committee to authorize local health programs to retain third party collections and to expend such funds as prescribed under the Act. It also provides that these funds shall be expended first for the delivery of services under the guaranteed national benefit package and secondly for other health services including supplemental benefits. The Amendment makes clear that funds collected under this section shall not be considered Federal funds for any purposes.

The Committee Amendment provides that Indian tribes shall be treated as a State for purposes of long term care and community-based services pursuant to Title XXIV of the Social Security Act. It makes clear that no Indian or family member served by a health program of the Service shall be required to participate in cost-sharing under the program. The Committee Amendment authorizes the establishment of a National Indian Advisory Group to advise the Secretary on all aspects of the administration of the Indian Health Service including the development of the IHS budget. It also includes an annual consultation requirement for the Secretary to con-

sult with Indian tribes, tribal organizations, and urban Indian organizations.

The Amendment adopted by the Committee also included a provision establishing a revolving loan program for the renovation, expansion, and construction of tribal and Indian Health Service facilities in order to ensure that health programs of the Service can deliver the Guaranteed National Benefits Package. The revolving loan fund created under this section is capitalized through appropriations of $500 million for fiscal years 1995, 1996 and 1997. In addition, the Amendment authorizes appropriations of $200 million for each fiscal year 1995 through 2000 to assist the Indian Health Service and Indian tribes in making the transition from the current Indian Health Service system to the health care delivery system created under the Health Security Act. These funds may be used for facility improvement, renovation, or expansion. These funds may also be used to bring Indian Health Service and tribal programs of the Service up to standards provided for under the Health Security Act.

The Committee Amendment provides authority for health programs of the Service to aggregate funds receipts for the purposes of sharing risk. It authorizes health programs of Service to participate in a shared risk or reinsurance pool. It also prohibits a State from denying payment to a health program of the Service because the program does not provide the full range of services required under the State Plan. It also makes clear that health programs of the Service shall be eligible for reimbursement of reasonable costs under Title XIX of the Social Security Act.

The amendment includes a provision related to the delivery of health services to Indian veterans. It makes clear that the Indian Health Service shall not be required to provide reimbursement to the Department of Veteran's Affairs for an Indian veteran who is enrolled in a health program of the Service and receives services from the Veteran's Affairs. It also authorizes the Indian Health Services and the Department of Veteran's Affairs to enter into a cooperative agreement to ensure that Indian veterans are also eligible to enroll in a health plan to the Department of Veteran's Affairs and may fully participate in a health plan of the Service or Veteran's Affairs without any charge. The Committee intends these provisions to reaffirm the Federal government's obligation to provide health services without charge. Indian veterans shall be eligible for services and shall not be responsible for any premiums, copayment, deductibles, or coinsurances. It also authorizes the Secretary of Health and Human Services and the Secretary of Veteran's Affairs to conduct a survey to assess the accessibility of health care services to Indian veterans residing on Indian reservations. The results of the survey shall be reported to the Congress within 180 days after the date of enactment.

The Committee Amendment authorizes Indian tribes and tribal organizations to establish a comprehensive managed mental health and substance abuse programs pursuant to Subtitle C of title IV of the Health Security Act. The bill also makes a facility of a health program of the Service eligible to receive capital financing assistance. It also sets aside 3% of the amounts available for grants for urgent capital needs. The Amendment also sets aside 3% of the

funds available under the Lead Paint Abatement Program under Title VII of the Health Security Act for grants to Indian tribes. The Committee Amendment makes clear that tribal health facilities would be eligible for the same rates of reimbursement as Federal facilities for purposes of Medicare and Medicaid. The Amendment provides that health programs of the Service shall have direct access to resources of the National Health Service Corps. The Amendment also provides that the provisions of this Act and any Amendments thereto shall be construed liberally for the benefit of Indians and any ambiguities shall be resolved in favor of Indians and Indian tribes.

Finally, the Amendment provides that until the health status objectives as enumerated in the Indian Health Care Improvement Act, 15 U.S.C. 1601 are obtained there may be no reduction in full-time equivalent (FTE) positions in the Indian Health Service for the number of such positions on September 30, 1994. The Committee is very concerned that the Indian Health Service has been subjected to a disproportionate level of FTE reductions over the past year. The FY 1995 Budget Proposal included a proposed cut of 460 FTE from the Indian Health Service. This proposed reduction represents 84% of all the FTE reductions within the Department of Health and Human Services. The Committee adopted language to ensure that the Indian Health Service will strive to meet the health status objectives in the Indian Health Care Improvement Act. The Committee reaffirms the Federal government's trust responsibility and legal obligations to American Indians to assure the highest possible health status and to meet the health status objectives for the year 2000.

Section-by-Section Analysis

SECTION 8301. POLICY

The section sets forth the policy of the United States to provide health care services to American Indians and Alaska Natives in such a way as to raise the health status of, and the quality of delivery of services to, American Indians and Alaska Natives to the highest possible level, as well as to ensure that such services are provided in a culturally appropriate manner consistent with the federal policies of Indian self-determination and self-governance. This section affirms the United States' trust obligation to provide health care services to American Indians and Alaska Natives.

SECTION 8302. HEALTH SECURITY FOR INDIANS

This section amends the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) by creating the following new Title IX:

SECTION 901. DEFINITIONS

This section defines a health program of the Indian Health Service as an Indian health program, whether operated directly by the Indian Health Service, by a tribe or tribal organization pursuant to Indian Self-Determination Act contracts or compacts, or by an urban Indian organization. This section also defines a narrower class of programs within health programs of the Indian Health Service,

namely, a health program of an Indian tribe, which is an Indian health program operated by a tribe or tribal organization. This section also incorporates the definition of Indian reservation used in the Indian Health Care Improvement Act. Urban Indian programs are those operated pursuant to the Title V of the Indian Health Care Improvement Act, and the terms "Indian", "Indian tribe", "tribal organization", "urban Indian", "urban Indian organization, and "service unit" have the same meaning as when used in the Indian Health Care Improvement Act.

SECTION 902. ELIGIBILITY AND HEALTH SERVICE COVERAGE OF INDIANS

Subsection (a) provides that an individual will be eligible to enroll in a health program of the Indian Health Service if he or she is eligible to receive IHS services under current Indian Health Service regulations, is an urban Indian, or is a California Indian as described in section 809(b) of the Indian Health Care Improvement Act.

Subsection (b) provides that an eligible Indian will be automatically enrolled in the health program of the Indian Health Service in which he or she was last an active user. An eligible Indian individual retains the option of enrolling in another health program of the IHS or a private, non-IHS health program or in Medicare Part C. Indian tribes operating health programs may offer enrollment to tribal members and their family members regardless of where those members reside.

Subsection (c) provides that an individual enrolled in a health program of the Indian Health Service shall not be charged for the cost of health services, and shall not be required to pay any premium, deductible, copayment or coinsurance charges.

Subsection (d) provides that family members of eligible Indians are eligible to enroll in a health program of the Indian Health Service.

SECTION 903. SUPPLEMENTAL INDIAN HEALTH CARE BENEFITS

This section provides that all eligible Indians remain eligible for supplemental Indian Health Care benefits Supplemental benefits are those benefits which are not included within the guaranteed national benefit package (the core or basic benefits package). Furthermore, the Secretary is to ensure that the delivery of benefits and services included within the guaranteed national benefit package does not result in a reduction of the level of supplemental benefits provided through the Indian Health Service system.

SECTION 904. QUALIFIED HEALTH PLAN AND HEALTH PROGRAM REQUIREMENTS

Subsection (a) requires the Secretary to ensure that all health programs of the Indian Health Service provide the

benefits and services included within the guaranteed national benefit package by no later than January 1, 1998. Subsection (a) would also require the National Health Board to provide technical assistance to Indian tribes similar to the assistance rendered to the States in order to ensure access to, and delivery of, the benefits and services within the comprehensive benefit package. It also provides that the Secretary shall provide for the construction and renovation of health facilities of the Indian Health Service and Indian tribes for the purpose of providing the guaranteed national benefit package.

Subsection (b) provides that no requirement applicable to other health plans shall apply to health programs of the Indian Health Service unless: (1) the Secretary establishes the requirement by regulation adopted after tribal consultation; or (2) the requirement is incorporated into a Self-Governance compact though negotiation.

Subsection (c) provides that health programs of the Indian Health Service shall be exempt from state requirements for qualified health plans, but these programs shall be subject to such requirements as the Secretary may apply. Prior to January 1, 1998, all health programs of the Indian Health Service must meet such certification requirements to the extent practicable.

Subsection (d) creates a capped entitlement in the Secretary on behalf of health programs of the Indian Health Service to benefits and services included within the guaranteed national benefits package. The entitlement is capped at $650 million in FY 1995, $700 million in FY 1996, $750 million in FY 1997, $800 million in FY 1998, $850 million in FY 1999, $900 million in FY 2000, and $900 million adjusted for inflation and population growth annually thereafter. This section also provides for a corresponding reduction in amounts authorized for the same purposes in other laws.

SECTION 905. TREATMENT OF TRIBAL GOVERNMENTS AND TRIBAL ORGANIZATIONS AND COVERAGE UNDER HEALTH PROGRAMS OF THE INDIAN HEALTH SERVICE

This section provides that for purposes of Medicare Part C a health program of the Indian Health Service shall be treated as a qualified health plan.

Subsection (b) provides that an Indian tribe or tribal organization shall not be required to make a contribution for coverage of an eligible Indian enrolled in an Indian Health Service plan.

Subsection (c) provides that employers not responsible for Medicare Part C premiums shall pay the employer contribution for employees covered by a program of the Indian Health Service to the Secretary. This contribution shall be equal to the applicable Medicare Part C premium. The Secretary shall provide for the appropriate distribution of funds to the corresponding health program of the Indian Health Service.

Subsection (d) provides that for employers paying the employer share of Medicare Part C premiums for an employee enrolled in a health program of the Indian Health Service shall be treated as if they are a Medicare Part C covered employee. It provides that Medicare Part C premiums for such employer shall be transferred to the appropriate health program of the Indian Health Service and not deposited in the Medicare Part C Trust Fund. It also provides that the distributions to health programs of the Indian Health Service shall be adjusted to reflect appropriate employer credits.

SECTION 906. PROVISION OF HEALTH SERVICES TO NON-ENROLLEES AND NON-INDIANS

Subsection (a) permits health programs of the Indian Health Service to provide services to family members of eligible Indians if the tribe, tribes, or urban Indian organization served by the health programs authorizes such services. Thus, an entire family may be permitted to enroll in a single health program of the Indian Health Service, even if certain family members would not be eligible to enroll in health programs of the Indian Health Service. Family members who would otherwise be ineligible to enroll in a health program of the Indian Health Service but who are enrolled pursuant to family enrollment will be subject to premiums, deductibles, and coinsurance charges. Employers of such individuals will also be responsible for the employer's share of those individuals' insurance premiums.

Subsection (b) authorizes health programs of the Indian Health Service to be treated as a Federally Qualified Health Center. A health program of the Indian Health Service may be treated as an essential community provider for eligible Indians, family members, and non-eligible individuals and shall be subject to such requirements as the Secretary may apply.

Subsection (b) also permits health programs of the Indian Health Service to enter into contracts with qualified health plans in order to provide health care services to individuals enrolled in those qualified health plans if the tribe, tribes, or urban Indian organization served by the health program, (1) authorize service to non-Indians, and (2) determine that the provision of services to non-Indians will not result in a reduction of services to Indians. Health programs of the Indian Health Service which enter into contracts with qualified health plans shall be reimbursed for costs for services provided to individuals enrolled in those qualified health plans.

Subsection (b) also permits a non-Indian individual to enroll in a health program of the Indian Health Service if authorized by the tribe and it is determined that the enrollment of such individuals will not result in a reduction of the level of services to Indians already enrolled in the health program.

Subsection (c) authorizes health programs of the Indian Health Service to reimburse each other for services provided to enrollees.

SECTION 907. PAYMENT BY OTHER PAYERS

This section provides that states may not discriminate against health programs of the Indian Health Service when those health programs enroll as providers in the Medicare or Medicaid programs. The Secretary shall consult with the Indian Health Service, Indian tribes, and the states in developing minimum standards for participation in the Medicare, Medicaid, and other federal and state programs. It provides that nothing in this title shall be construed as affecting the status of the Indian Health Service as the payor of last resort for Indians eligible for contract health services under a health program of the Indian Health Service.

SECTION 908. RETENTION OF RECEIPTS

This section provides that amounts received by health programs of the Indian Health Service shall remain with the local program until expended, first for the provision of services under the guaranteed national benefit package and then for other services of the Indian Health Service including supplemental services.

SECTION 909. LONG-TERM CARE AND COMMUNITY-BASED SERVICES

This section authorizes the treatment of Indian tribes as states for the purposes of this title so that Indian tribes and Indian health programs may carry out the long-term care programs. Under this section, no Indian or a family member participating in a long-term care program through a health program of the Indian Health Service shall be required to participate in cost sharing. In lieu of state licensure standards, the Secretary is authorized to develop minimum federal standards for tribal participation in the long term care program.

SECTION 910. CONSULTATION

This section requires the Secretary of Health and Human Services to consult annually with tribes on health care initiatives, and the operation of the Indian Health Service. This section also authorizes the creation of a National Indian Advisory Group to advise the Secretary on matters relating to the Indian Health Service.

SECTION 911. CAPITAL INVESTMENT AND TRANSITIONAL ASSISTANCE

This section authorizes the creation of a revolving loan fund under which the Indian Health Service may provide guaranteed loans to tribes and tribal organizations in order to fund the construction and expansion of Indian

Health Service and tribal facilities in order to ensure that all health programs of the Indian Health Service will be able to deliver the benefits and services within the guaranteed national benefit package. The revolving loan fund shall be authorized at $500 million from FY 1995 through FY 1997. This section also authorizes funding in the amount of $200 million for FY 1995 through FY 2000 for other transitional costs, including grants for planning and start-up support, and for computer and other information expansion of Indian Health Service and tribal programs.

SECTION 912. RISK SHARING

This section authorizes individual health programs of the Indian Health Service to pool receipts and funds together in order to share risk so that small health programs of the Indian Health Service are not rendered financially insolvent by a catastrophic health care event. The Indian Health Service may also establish a reinsurance pool at the request of health programs of the Indian Health Service.

SECTION 913. EQUAL ACCESS TO OTHER FUNDS

This section ensures that health programs of the Indian Health Service have equal access to funds or other assistance made available under this Act to states, qualified health plans, or other entities. Receipts of such funds shall not entitle the Secretary or the Indian Health Service to offset any other funding.

SECTION 914. ELIGIBILITY FOR REIMBURSEMENT

This section provides that a health program of the Indian Health Service may be reimbursed for the provision of any medical assistance authorized under the Medicaid program, regardless of whether the State plan in which the health program of the Indian Health Service is located includes such assistance. Currently, Indian Health Service program may be reimbursed only for services included in the surrounding Stat's plan. The types of services in the states' plans not only vary from year to year, but from state to state. This amendment would stabilize the types of medical assistance available to health programs of the Indian Health Service within the Medicaid program.

SECTION 915. TREATMENT OF INDIAN HEALTH PROGRAMS AND FACILITIES UNDER MEDICARE AND MEDICAID

Subsection (a) prevents states from enrolling Indian Medicare beneficiaries into state health plans unless the Indian individual so chooses.

Subsections (b) and (c) authorize health programs of the Indian Health Service to receive reimbursement for services provided under the Medicare program. The effective date for these changes is January 1, 1995.

Subsection (d) amends Medicaid by providing that the Federal Medical Assistance Percentage shall be 100% with respect to services provided through health programs of the Indian Health Service. In other word, the state Medicaid match will be zero.

SECTION 916. TREATMENT OF INDIANS ENTITLED TO VETERANS BENEFITS

This section assures the Indian veterans will be eligible for both Veterans and Indian health programs, and permits the Indian Health Service and VA to enter into cooperative arrangements in order to accomplish this purpose. It also makes clear that the Indian Health Service shall not be required to provide reimbursement to the Veteran's Administration for benefits provided to Indian veterans.

Subsection (c) authorizes the Secretary of Health and Human Services in consultation with the Secretary of Veterans' Affairs and Indian tribes and tribal organizations, to conduct a survey on the availability and accessibility of health care services to Indian veterans. The Secretary shall report his findings to the Congress not later than 180 days after enactment.

SECTION 917. PUBLIC HEALTH INITIATIVES

This section provides that an Indian tribe or tribal organization may establish a comprehensive managed mental health and substance abuse program for eligible Indians and their family members.

Subsection (b) provides for the development of training sites for primary care residency programs in health programs of the Indian Health Service. This section also requires the Secretary to establish a priority under the National Health Care Workforce Plan in favor of training programs for Native Americans and other underserved populations. It also requires the Secretary to consider the number of communities with a ratio of physicians to populations of less than 5 per 100,000 in designating the annual number of specialty positions. It requires the Secretary to consider whether a program has shown an increase in the recruitment and retention of American Indian and Alaska Natives, and students of other medically underserved populations. In making payments to medical schools the Secretary shall give priority to programs which recruit and retain American Indians and Alaska Natives.

Subsection (c) provides that Indian tribes and health programs of the Indian health Service may participate in the capital financing assistance program established under the Health Security Act.

Subsection (d) makes clear that Indian tribes shall be considered eligible entities for purposes of the lead abatement program.

Subsection (e) provides that Indian tribes and tribal organization shall be considered public organizations for purposes of receiving managed care plans under the Act.

Subsection (f) provides that Indian tribes and tribal organizations may be considered States for purposes of receiving grants under the emergency medical services program under this Act.

Subsection (g) requires the Secretary in establishing priorities for biomedical research under the Act shall give priority to conducting and supporting research based on recommendations by epidemiology centers established in the Indian Health Care Improvement Act.

It also provides that a facility of a health program of the Indian Health Service is eligible to participate as a rural primary care hospital and may be included in a State rural health network in the service area of the facility. Indian tribes and tribal organizations may receive grants for planning and implementing a community health plan in the State. In addition, a facility of a health program of the Indian Health Service shall be eligible to receive a grant in the same manner as a hospital, facility or consortia of hospital or facilities.

This section also ensures that health programs of the Indian Health Service are eligible for funding, grants, and contract under the medically underserved populations initiatives and have access to the National Health Service Corps resources.

SECTION 8303. RULES OF CONSTRUCTION

This section states that nothing in this Act shall be construed to rescind or modify the obligations or purposes contained in the Indian Health Care Improvement Act and the Indian Self-Determination and Education Assistance Act unless specifically provided for in this Act. It also provides that the Act shall be construed liberally for the benefit of Indians.

SECTION 8304. PROHIBITION ON REDUCTIONS OF FULL-TIME EQUIVALENT POSITIONS IN THE INDIAN HEALTH SERVICE

This section provides that until the health status objectives set out in the Indian Health Care Improvement Act are met, no reduction in full-time equivalent positions may be made from the current number of such positions the Indian Health Service as of September 30, 1994.

Legislative History

On November 20, 1993, Congressman Gephardt introduced H.R. 3600, the National Health Security Act. The Subcommittee on Native American Affairs of the Committee on Natural Resources was referred Subtitle D of Title VIII of H.R. 3600 pursuant to the Speaker's Order. The Subcommittee on Native American Affairs held hearings on Subtitle D of Title VIII of H.R. 3600 on February 28, 1994 and on May 3, 1994. On July 20, 1994, the Committee on Natural Resources considered Subtitle D of Title VIII of H.R. 3600 and unanimously passed Subtitle D of Title VIII of H.R. 3600 and ordered it to be reported to the House with an amendment and recommends its enactment by the House.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

Pursuant to the terms of the referral of the bill to the Committee, the Committee adopted amendments to subtitle D of title VIII. In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the portions of the bill to which amendments were adopted by the Committee, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INDIAN HEALTH CARE IMPROVEMENT ACT

* * * * * * *

DECLARATION OF HEALTH OBJECTIVES

SEC. 3. [(a) The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to assure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy.] *(a) The Congress hereby declares that it is the policy of this Nation, in fulfillment of its unique trust responsibility and legal obligation to the American Indian and Alaska Native people—*

(1) to assure the highest possible health status for American Indians and Alaska Natives,

(2) to raise the quality of health care delivery to American Indians and Alaska Natives to the highest possible level,

(3) to provide health care services in a culturally appropriate manner which is consistent with the policies of Indian self-determination and tribal self-governance, and

(4) to provide all resources necessary to effect paragraphs (1) through (3).

* * * * * * *

TITLE IV—ACCESS TO HEALTH SERVICES

TREATMENT OF PAYMENTS UNDER MEDICARE PROGRAM

SEC. 401. (a) Any payments received by a hospital or skilled nursing [facility of the Service (whether operated by the Service or by an Indian tribe or tribal organization pursuant to a contract under the Indian Self-Determination Act)] *of a health program of the Service (as defined in section 901(2))* for services provided to Indians eligible for benefits under title XVIII of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians. *For purposes of section 1880 of the Social Security Act, any reference in such section to a "hospital" or a "skilled nursing facility" shall be considered to be a reference to any facility of a health program of the Service.*

* * * * * * *

(c) For purposes of title XVIII of the Social Security Act—

(1) a facility of a health program of the Service may elect to be treated as a rural primary care hospital, and a State establishing a rural health network under section 1820 of such Act

in the service area of the facility shall be required to include the facility in such rural health network;

(2) an Indian tribe or tribal consortium shall be eligible to receive funds under section 1821 of such Act for planning and implementing a community health plan in the same manner as a State under such section; and

(3) a facility of a health program of the Service shall be eligible to receive a grant under section 1821 of such Act for carrying out activities described in subsection (d)(2)(D) of such section in the same manner as a hospital, facility, or consortia of hospitals or facilities.

TREATMENT OF PAYMENTS UNDER MEDICAID PROGRAM

SEC. 402. (a) Notwithstanding any other provision of law, payments to which any [facility of the Service] *health program of the Service (as defined in section 901(2))* (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act) is entitled under a State plan by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of [such Service] *such health programs of the Service* which may be necessary to achieve compliance with the applicable conditions and requirements of such title. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives at least 80 percent of the amounts to which [the facilities of the Service] *such health programs of the Service*, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act.

(b) Any payments received by [such facility] *such health program of the Service* for services provided to Indians eligible for benefits under title XIX of the Social Security Act shall not be considered in determining appropriations for the provision of health care and services to Indians.

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TITLE VIII—MISCELLANEOUS

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NATIONAL HEALTH SERVICE CORPS

SEC. 812. *(a)* The Secretary of Health and Human Services shall not—

(1) remove a member of the National Health Service Corps from a health facility operated by the Indian Health Service or by a tribe or tribal organization under contract with the Indian Health Service under the Indian Self-Determination Act, or

(2) withdraw funding used to support such member,

unless the Secretary, acting through the Service, has ensured that the Indians receiving services from such member will experience no reduction in services.

(b) In addition to placement of National Health Service Corps providers, health programs of the Service shall have direct access to the National Health Service Corps resources. Allocations of personnel of the National Health Service Corps to Indian tribes operating health programs pursuant to the Indian Self-Determination Act does not render such health programs ineligible for any other resources.

* * * * * * *

TITLE IX—HEALTH SECURITY FOR INDIANS

SEC. 901. DEFINITIONS.

For the purposes of this title:

(1) GUARANTEED NATIONAL BENEFIT PACKAGE.—The term "guaranteed national benefit package" has the meaning given such term in section 2(4) of the Health Security Act.

(2) HEALTH PROGRAM OF THE SERVICE.—The term "health program of the Service" means a program which provides health services pursuant to the Health Security Act or other applicable laws (including those under the authority of the Indian Self-Determination and Education Assistance Act) through one or more programs operated by the Service, by a health program of an Indian tribe, or by an urban Indian program operated pursuant to title V.

(3) HEALTH PROGRAM OF AN INDIAN TRIBE.—The term "health program of an Indian tribe" means a program which provides health services pursuant to the Health Security Act or other applicable laws (including those under the authority of the Indian Self-Determination and Education Assistance Act) through a program operated by an Indian tribe, tribal organization, or group of Indian tribes or tribal organizations.

(4) FAMILY.—The term "family" has the meaning given such term in section 3 of the Health Security Act.

(5) QUALIFIED HEALTH PLAN.—The term "qualified health plan" has the meaning given such term in section 2(9) of the Health Security Act.

SEC. 902. ELIGIBILITY AND HEALTH SERVICE COVERAGE OF INDIANS.

(a) ELIGIBILITY.—

(1) IN GENERAL.—An eligible individual, as defined in section 1001(c) of the Health Security Act, is eligible to enroll in a health program of the Service if the individual is—

(A) eligible to receive services pursuant to sections 36.1—36.14 of title 42, Code of Federal Regulations (1986);

(B) an urban Indian; or

(C) an Indian described in section 809(b).

(2) ELECTION TO ENROLL OTHER TRIBAL MEMBERS AND FAMILY MEMBERS.—In addition to those individuals made eligible to enroll in a health program of the Service under paragraph (1), a tribe, which operates a health program directly or through a tribal organization, may elect to offer enrollment in a health

program of the Service to members of the tribe, regardless of their residency or domicile.

(b) ENROLLMENT.—

(1) AUTOMATIC.—An individual described in subsection (a)(1) shall be enrolled automatically in the health program of the Service in which the individual was last an active user unless the individual elects to enroll in another health program of the Service or another qualified health plan or establishes coverage under the medicare part C program (established under part A of title XXIII of the Social Security Act).

(2) OTHER.—An individual described in subsection (a) who is not automatically enrolled in a health program of the Service under paragraph (1) may enroll in such a program in a manner specified by the Secretary.

(c) LIMITATION ON CHARGES.—An individual who is eligible under subsection (a) and who enrolls in a health program of the Service shall not be subject to any charge for health insurance premiums, deductibles, copayments, coinsurance, or any other cost for health services provided under such program.

(d) REFERENCE TO ENROLLMENT COVERAGE OF FAMILY MEMBERS.—Family members of individuals described in subsection (a) may be eligible under section 906(a) to enroll in a health program of the Service.

SEC. 903. SUPPLEMENTAL INDIAN HEALTH CARE BENEFITS.

(a) IN GENERAL.—All individuals described in section 902(a)(1) remain eligible for supplemental Indian health care benefits.

(b) SUPPLEMENTAL INDIAN HEALTH CARE BENEFITS.—For the purposes of this section, the term "supplemental Indian health care benefits" means all services provided under the laws administered by the Service which supplement the guaranteed national benefit package. The individual shall not be subject to any charge or any other cost for such benefits.

(c) MAINTENANCE OF EFFORT.—The Secretary shall ensure that the requirements of section 904(a) do not result in a reduction of the level of supplemental Indian health care benefits provided by or through the Service.

SEC. 904. QUALIFIED HEALTH PLAN AND HEALTH PROGRAM REQUIREMENTS.

(a) GUARANTEED NATIONAL BENEFIT PACKAGE.—

(1) PROVIDED BY DATE CERTAIN.—Notwithstanding any other provision of law, the Secretary shall ensure that the guaranteed national benefit package is provided or assured by all health programs of the Service effective January 1, 1998.

(2) FACILITIES AND INFRASTRUCTURE.—In carrying out paragraph (1), the Secretary shall—

(A) subject to section 301, provide for the construction and renovation of hospitals, health centers, health stations, and other facilities of the Service, tribes, tribal organizations, and urban Indian organizations for the purpose of improving and expanding such facilities to enable the delivery of the full array of items and services guaranteed in the guaranteed national benefit package; and

(B) make planning grants and grants for start-up support to Indian tribes under such terms and conditions as the Secretary determines to assist the Indian tribes in ensuring the delivery of services under the guaranteed national benefit package, including the establishment of computerized information and billing systems for health programs of the Service.

(3) HEALTH PROFESSIONAL SERVICES.—With respect to any individual enrolled in a health program of the Service, in applying the guaranteed national benefit package the term "health professional services" includes health services provided by a traditional Indian healer.

(b) APPLICABLE REQUIREMENTS OF QUALIFIED HEALTH PLANS.—No requirement of a qualified health plan shall apply to a health program of the Service unless the requirement (1) is established or approved by the Secretary for specific application to health programs of the Service by regulation adopted with the participation of Indian tribes, tribal organizations, and urban Indian organizations, or (2) is negotiated by an Indian tribe pursuant to a self-governance compact. The Secretary shall solicit and consider the views and recommendations provided by Indian tribes, tribal organizations, and urban Indian organizations in establishing or approving requirements that apply to the health programs of the Service.

(c) CERTIFICATION.—Health programs of the Service shall be exempt from the requirements of any State for qualified health plans, but such programs on and after January 1, 1998, shall be subject to such requirements as may be established or approved by the Secretary pursuant to subsection (b), and the Secretary shall certify from time to time that each health program of the Service is in compliance with the requirements established or approved by the Secretary. Before January 1, 1998, all such health programs shall, to the extent practicable, meet the certification requirements established or approved pursuant to subsection (b).

(d) ENTITLEMENT STATUS OF PROGRAMS; AGGREGATE FUNDING LEVEL FOR PROGRAM.—

(1) IN GENERAL.—Subject to paragraph (2), the requirement established in subsection (a) for the Secretary (relating to the guaranteed national benefit package and necessary facilities and infrastructure thereto)—

(A) is an entitlement in the Secretary on behalf of health programs of the Service (but is not an entitlement in any Indian); and

(B) constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide the guaranteed national benefit package in the aggregate amounts, and for the fiscal years, specified in paragraph (2).

(2) AGGREGATE FUNDING LEVELS.—For purposes of paragraph (1)(B), the amounts and fiscal years specified in this paragraph are the following:

(A) For fiscal year 1995, $650,000,000.
(B) For fiscal year 1996, $700,000,000.
(C) For fiscal year 1997, $750,000,000.
(D) For fiscal year 1998, $800,000,000.

(E) For fiscal year 1999, $850,000,000.

(F) For fiscal year 2000, $900,000,000.

(G) For fiscal year 2001, the amount specified in subparagraph (F) multiplied by an amount equal to the product of—

(i) 1 plus the general health care inflation factor; and

(ii) 1 plus the annual percentage increase projected by the Secretary to occur during such year in the populations served by health programs of the Service.

(H) For fiscal year 2002 and each subsequent fiscal year, the amount determined under this paragraph for the preceding fiscal year multiplied by an amount equal to the product of clauses (i) and (ii) of subparagraph (G) (as such clauses are applied for the fiscal year involved).

(3) AVAILABILITY OF FUNDS.—The budget authority provided in paragraph (1) is available until expended.

(e) REDUCTION IN DUPLICATE AUTHORIZATIONS.—To the extent that amounts specified in subsection (d) of this section are made available for the same purposes for which any other provision of law authorizes amounts to be appropriated, the amounts authorized to be appropriated in such other provisions are hereby reduced (but not below zero) by the amounts specified in such subsection.

SEC. 905. TREATMENT OF TRIBAL GOVERNMENTS AND TRIBAL ORGANIZATIONS AND COVERAGE UNDER HEALTH PROGRAMS OF THE INDIAN HEALTH SERVICE.

(a) TREATMENT OF HEALTH PROGRAMS AS QUALIFIED HEALTH PLANS.—For purposes of section 59B and chapter 25 of the Internal Revenue Code of 1986, the term "qualified health plan" includes a health program of the Service.

(b) NO EMPLOYER CONTRIBUTION REQUIRED OF INDIAN TRIBES AND TRIBAL ORGANIZATIONS FOR COVERED INDIANS.—For purposes of section 3466 of the Internal Revenue Code of 1986, an Indian tribe or tribal organization is not required to make a contribution for coverage in the case of an employee who is described in section 902(a) and is covered under a health program of the Service.

(c) REQUIREMENTS FOR EMPLOYERS PROVIDING COVERAGE FOR EMPLOYEES.—

(1) IN GENERAL.—In applying chapter 25 of the Internal Revenue Code of 1986 in the case of an employer with respect to an employee who is covered only under a health program of the Service and not under any other qualified health plan, in order for the employee to be considered to be a qualified employer-covered employee (under section 3466 of such Code), instead of the employer contribution otherwise required under section 3466(d) of such Code, the employer shall pay the Secretary (in a manner specified by the Secretary) an amount equal to the applicable medicare part C premium (as defined in section 3455(c) of such Code).

(2) DISPOSITION OF FUNDS.—With respect to amounts paid to the Secretary under paragraph (1), the Secretary shall—

(A) credit payment of such amounts to the appropriation for health programs of the Service, and

(B) provide for the appropriate distribution of such amounts to such health programs of the Service as provide services to employees and family members with respect to which such payments are made.

(d) REQUIREMENTS FOR EMPLOYERS PAYING EMPLOYER SHARE OF MEDICARE PART C PREMIUMS.—In applying section 3455 of the Internal Revenue Code of 1986 in the case of an employer with respect to an employee that is subject to a tax under such section, if the employee is covered under a health program of the Service and not under any other qualified health plan—

(1) the employee shall be treated as a medicare part C covered employee, notwithstanding coverage under such a program;

(2) the amounts received in the Treasury under section 3455 of the Internal Revenue Code of 1986 that are attributable to paragraph (1) shall be transferred to the credit of the appropriation for health programs of the Service, and not deposited into the Medicare Part C Trust Fund as otherwise provided under section 2324(a)(2) of the Social Security Act; and

(3) the Secretary shall provide for appropriate distribution of such amounts to health programs of the Service that provide services to employees and family members with respect to which such payments are made.

The amounts transferred and distributed under paragraphs (2) and (3) shall be adjusted, in a manner specified by the Secretary in consultation with the Secretary of the Treasury, to reflect employer credits payable under section 3462 of the Internal Revenue Code of 1986.

SEC. 906. PROVISION OF HEALTH SERVICES TO NON-ENROLLEES AND NON-INDIANS.

(a) PROVISION OF HEALTH SERVICES TO NON-INDIAN FAMILY MEMBERS OF INDIANS.—

(1) IN GENERAL.—A health program of the Service may provide health services to family members of individuals described in section 902(a) if the tribe, tribes, or urban Indian organization served by the program authorizes the provision of services to such family members.

(2) ENROLLMENT IN A HEALTH PROGRAM OF THE SERVICE.—

(A) ELECTION.—If a health program of the Service opens enrollment pursuant to paragraph (1) to family members of individuals described in section 902(a), an individual described in that section may elect family enrollment in the health program instead of in a qualified health plan.

(B) ENROLLMENT.—

(i) IN GENERAL.—An individual who elects family enrollment under subparagraph (A) in a health program of the Service shall enroll in such program.

(ii) APPLICABLE INDIVIDUAL CHARGES.—The individual who enrolls in such program under clause (i) is not subject to any charge for health insurance premiums, deductibles, copayments, coinsurance, or any other cost for health services provided under such program attributable to the individual, but the family members who are not eligible for a health program of the Service under section 902(a) are subject to all such charges.

(iii) APPLICABLE EMPLOYER CHARGES.—Employers, except as provided in section 905, are liable for making employer premium payments or contributions as an employer under chapter 25 of the Internal Revenue Code of 1986 in the case of any family member enrolled under this subsection who is not eligible for a health program of the Service under section 902(a).

(C) BENEFIT MANAGEMENT PROGRAMS.—For purposes of section 4104 of the Health Security Act and section 2324(c) of the Social Security Act—

(i) the Service may elect to have a health program of the Service treated as a State benefit management program approved under subtitle B of title IV of the Health Security Act, and

(ii) an Indian tribe which operates a health program of an Indian tribe may elect to have such program treated as such a State benefit management program.

(b) PROVISION OF HEALTH SERVICES TO OTHER NON-INDIANS.—

(1) FEDERALLY QUALIFIED HEALTH CENTER STATUS.—For purposes of any provision of the Social Security Act, a health program of the Service shall be deemed to be a federally qualified health center (as described in section 1861(aa)(4) of the Social Security Act) without regard to any applicable requirement of such section.

(2) ESSENTIAL COMMUNITY PROVIDER.—

(A) A health program of the Service may elect to provide services as an essential community provider under title XXII of the Social Security Act—

(i) for eligible individuals described in section 902(a) who are enrolled in a qualified health plan other than a health program of the Service;

(ii) for family members described in subsection (a)(1) who are enrolled in a qualified health plan other than a health program of the Service, if the tribe, tribes, or urban Indian organization served by the program authorizes serving such family members; or

(iii) for other individuals enrolled in a qualified health plan, if (I) the tribe, tribes, or urban Indian organization served by the health program of the Service authorizes serving non-Indians, and (II) tribe, tribes, or urban Indian organization determines that allowing such services to non-Indians will not result in a denial or diminution of health services to any individual described in section 902(a)(1) who is enrolled in a health program of the Service.

(B) Health programs of the Service electing to provide services as an essential community provider under subparagraph (A) shall be subject only to those requirements as the Secretary may determine.

(3) CONTRACTS WITH QUALIFIED HEALTH PLANS.—

(A) IN GENERAL.—A health program of the Service may enter into a contract with a qualified health plan for the provision of health care services to individuals enrolled in such qualified health plan if the authorization and deter-

mination specified in subclauses (I) and (II) of paragraph (2)(A)(iii) are made.

(B) REIMBURSEMENT.—Any contract entered into pursuant to subparagraph (A) shall provide for reimbursement of costs to such program in accordance with those provisions of law applying with respect to essential community providers as determined by the Secretary with tribal consultation and tribal concurrence.

(4) ENROLLMENT OF NON-INDIANS.—An eligible individual (as defined in section 1001(c) of the Health Security Act) may receive services or enroll in a health program of an Indian tribe if the authorization and determination specified in subclauses (I) and (II) of paragraph (2)(A)(iii) is made.

(c) REIMBURSEMENT FOR SERVICES PROVIDED TO INDIANS ENROLLED IN OTHER HEALTH PROGRAMS OF THE SERVICE.—A health program of the Service shall reimburse another health program of the Service for services provided to its enrollees in accordance with such reimbursement provisions as the Secretary determines to be appropriate.

SEC. 907. PAYMENT BY OTHER PAYERS.

(a) PAYMENT CERTIFICATION.—

(1) NON-DISCRIMINATION.—A State may not discriminate against or limit any health program of the Service from qualifying as a provider for purposes of reimbursement under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act or for other health programs which receive financial assistance through the Federal Government or a State.

(2) CONSULTATION.—The Secretary and the States shall consult with the Service and Indian tribes in the development of standards under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act or under any other health program which receives financial assistance through the Federal Government or the State.

(b) PAYMENT FOR SERVICES PROVIDED BY CONTRACTORS.—Nothing in this title, the Health Security Act, or an amendment made by the Health Security Act shall be construed as affecting any other provision of law, regulation, or judicial or administrative interpretation of law or policy concerning the status of the Service as the payor of last resort (as defined in part 36 of title 42, Code of Federal Regulations) for Indians eligible for contract health services under a health program of the Service.

SEC. 908. RETENTION OF RECEIPTS.

(a) IN GENERAL.—Amounts received by a health program of the Service pursuant to this title, the Health Security Act, or an amendment made by the Health Security Act shall remain with and may be expended by the health program of the Service, notwithstanding any other provision of law.

(b) AVAILABILITY OF FUNDS FOR EXPENDITURE BY A HEALTH PROGRAM OF THE SERVICE.—Amounts available to a health program of the Service pursuant to this section shall be available without further appropriation and shall remain available until expended, first for payments for the delivery of the items and services in the guar-

anteed national benefit package and then for other services offered by the health program of the Service, including supplemental Indian health care benefits described in section 903.

(c) CHARACTER OF TRIBAL FUNDS.—Nothing in this section shall be construed to require the appropriation of, or otherwise characterize as Federal funds, amounts available pursuant to this section to Indian tribes, tribal organizations, and urban Indian organizations.

SEC. 909. LONG-TERM CARE AND COMMUNITY-BASED SERVICES.

For the purposes of title XXIV of the Social Security Act, an Indian tribe shall be treated as a State, and a health program of an Indian tribe may be treated as a plan, except as follows:

(1) No Indian or family member of an Indian served through a health program of the Service shall be required to participate in cost sharing.

(2) In lieu of State licensure standards relating to long-term care, the Secretary shall develop minimum standards for long-term care provided by a health program of the Service.

SEC. 910. CONSULTATION.

(a) IN GENERAL.—The Secretary shall consult annually with representatives of Indian tribes, tribal organizations, and urban Indian organizations concerning health care initiatives that affect Indian communities and concerning policy, funding, and administration of health programs of the Service. The Secretary shall solicit and consider the views and recommendations provided by Indian tribes, tribal organizations, and urban Indian organizations in making determinations that affect Indians and Indian tribes.

(b) NATIONAL INDIAN ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group to assess and advise the Secretary on all aspects of the administration of health programs of the Service, including development of the budget for such programs.

(2) COMPOSITION.—The advisory group shall be composed of not less than one representative from each Service area, to be appointed by the Secretary from nominees of tribes and tribal organizations in the respective areas and such other appointees as the Secretary determines appropriate, except that a majority of the members must have been nominated by a tribe or tribal organization.

(3) REPORTS.—The advisory group shall submit such reports as may be necessary to the Congress.

SEC. 911. CAPITAL INVESTMENT AND TRANSITIONAL ASSISTANCE.

(a) CAPITAL FINANCING.—

(1) ESTABLISHMENT OF PROGRAM.—There is established in the Service a revolving loan program. Under the program, the Secretary, acting through the Service, shall provide guaranteed loans from the amounts appropriated pursuant to paragraph (2) to health programs of an Indian tribe. Such guaranteed loans shall be subject to such terms and conditions as the Secretary may prescribe to improve and expand health care facilities to enable the delivery of the full array of items and services guaranteed in the guaranteed national benefit package. Nothing in this part shall prevent such health programs from obtaining

loans and loan guarantees pursuant title XXIV of the Social Security Act.

(2) AGGREGATE CAPITAL FINANCING FUNDING LEVELS.—For purposes of paragraph (1), there is authorized to be appropriated $500,000,000 for each of the fiscal years 1995 through 1997.

(b) TRANSITIONAL ASSISTANCE.—There is authorized to be appropriated $200,000,000 for each of the fiscal years 1995 through 2000 to provide transitional assistance to the Service and to Indian tribes, tribal organizations, and urban Indian organizations to provide the guaranteed national benefit package.

SEC. 912. RISK SHARING.

Health programs of the Service may aggregate fund receipts (including from contracts and subcontracts) for the purposes of sharing risk (including assumed partial risk). The Service shall establish, at the request of health programs of the Service, a shared risk or reinsurance pool. The fund receipts may be used only as provided by the participants in the shared risk or reinsurance pool.

SEC. 913. EQUAL ACCESS TO OTHER FUNDS.

Notwithstanding any other provision of law, health programs of the Service shall be entitled to receive any funds made available under the Health Security Act, or to States, qualified health plans, or other eligible entities under any provision of the Health Security Act, for capacity building, including construction, for the purposes for which such funds are made available. Receipt of funds under this section shall not offset funds otherwise available under this title.

SEC. 914. ELIGIBILITY FOR REIMBURSEMENT.

(a) IN GENERAL.—Notwithstanding any other provision of Federal law, the statutes of any State, or waivers granted by the Secretary as authorized by titles XI or XIX of the Social Security Act, a health program of the Service shall be eligible for reimbursement for medical assistance provided to an individual eligible under title XIX of the Social Security Act. The health program of the Service shall be eligible for reimbursement for reasonable costs under title XIX of the Social Security Act, except that such reimbursement payments shall not be less than that provided to a certified provider under the State plan.

(b) NO STATE DENIAL.—A State may not deny payment to a health program of the Service on grounds that the health program does not provide the entire range of services required under the State plan.

SEC. 915. TREATMENT OF INDIAN HEALTH PROGRAMS AND FACILITIES UNDER MEDICARE AND MEDICAID.

(a) OPTION OF ENROLLMENT IN INDIAN HEALTH PROGRAMS.—A State may not require an individual described in section 902(a) to enroll in any health program established by the State pursuant to the Health Security Act or the Social Security Act unless the State provides the individual with the option to enroll in a health program of the Service.

(b) PAYMENTS ON BEHALF OF CERTAIN MEDICARE-ELIGIBLE INDIVIDUALS.—To the extent that the Secretary makes any payments under the Health Security Act or the Social Security Act to regional

alliances or private health plans on behalf of medicare beneficiaries enrolled in such private health plans, the Secretary shall make payments to a health program of the Service on behalf of medicare beneficiaries who are described in section 902(a) and enrolled in a health program of the Service.

(c) COVERAGE OF SERVICES PROVIDED TO MEDICARE BENEFICIARIES BY HEALTH PROGRAMS OF THE INDIAN HEALTH SERVICE.—

(1) TREATMENT AS ELIGIBLE ORGANIZATIONS.—A health program of the Service may elect to be considered an eligible organization for purposes of section 1876 of the Social Security Act with respect to medicare beneficiaries who are individuals described in section 902(a).

(2) TREATMENT AS PROVIDERS OF SERVICES.—A health care facility of a health program of the Service shall be considered a provider of services under section 1861(u) of the Social Security Act with respect to medicare beneficiaries who are individuals described in section 902(a).

(3) EFFECTIVE DATE.—This subsection shall take effect on January 1, 1995, and shall apply to items and services furnished on or after such date.

(d) EXPANDING THE REIMBURSEMENT TO STATES FOR HEALTH PROGRAMS OF THE INDIAN HEALTH SERVICE.—For purposes of determining the amount of payment made to a State under section 1903(a) of the Social Security Act with respect to any services furnished on or after January 1, 1995, under title XIX of such Act which are received through a health program of the Indian Health Service or any program or facility owned or operated by the Indian Health Service, an Indian tribe, or a tribal organization, without regard to any limitation in a State plan of medical assistance otherwise applicable under such title, the Federal medical assistance percentage shall be 100 percent.

SEC. 916. TREATMENT OF INDIANS ENTITLED TO VETERANS BENEFITS.

(a) IN GENERAL.—In the case of an individual described in section 902(a) who is enrolled in a health program of the Service and is a veteran who receives items and services in the guaranteed national benefit package through the Secretary of Veterans' Affairs, the Service shall not be required to provide reimbursement to such Secretary for such items and services.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall enter into a cooperative service and payment agreement with the Secretary of Veterans' Affairs to assure that veterans who are described in section 902(a) and also eligible for enrollment in a health plan operated by the Department of Veterans' Affairs are entitled to fully participate in either health plan without payment premiums, copayments, deductibles, or coinsurance.

(c) SURVEY OF HEALTH SERVICES AVAILABLE TO INDIAN VETERANS.—

(1) IN GENERAL.—The Secretary of the Department of Health and Human Services, in consultation with the Secretary of the Department of Veterans Affairs, Indian tribes and tribal organizations, shall conduct a survey to assess the availability and accessibility of health care services for Indian veterans residing on Indian reservations.

(2) REPORT.—Not later than 180 days after the date of enactment of this title, the Secretary of the Department of Health and Human Services shall submit a report to the Congress, including recommendations, concerning the survey conducted under paragraph (1).

SEC. 917. PUBLIC HEALTH INITIATIVES.

(a) COMPREHENSIVE MANAGED MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAMS.—For purposes of subtitle C of title IV of the Health Security Act and the Social Security Act—

(1) an Indian tribe or tribal organization may establish a comprehensive managed mental health and substance abuse program under such subtitle with respect to individuals described in section 902(a) and family members in the same manner as a State may establish such a program with respect to eligible individuals who are residents of the State, and

(2) an Indian tribe or tribal organization operating such a program may receive payment with respect to services provided under the program in the same manner as a State operating such a program.

(b) HEALTH CARE WORKFORCE PROVISIONS.—

(1) MEDICAL RESIDENCY TRAINING PROGRAMS.—In carrying out the provisions of the Health Security Act relating to medical residency training programs with respect to health programs of the Service, the Secretary shall develop training sites for medical residency training programs in primary care in health programs of the Service.

(2) ALLOCATIONS AMONG MEDICAL SPECIALTIES.—In making allocations among the medical specialities under subtitle A of title VII of the Health Security Act—

(A) the Secretary shall establish a priority under the National Health Care Workforce Plan under such subtitle in favor of programs training participants in primary care for American Indians, Alaska Natives, and other underserved populations;

(B) the Secretary shall consider the number of communities in which the ratio of physicians to the corresponding population is less than 5 per 100,000 in designating the annual number of specialty positions; and

(C) in making allocations for medical specialties under such Plan among approved medical residency training programs, the Secretary shall consider (among other factors) whether a program has an increase in the recruitment and retention of American Indian and Alaska Native students and students of other medically underserved populations.

(3) MEDICAL SCHOOL PAYMENTS.—In making payments to medical schools described in section 7102(c)(1) of the Health Security Act, the Secretary shall give priority to medical schools with programs to recruit and retain American Indian and Alaska Native students.

(c) CAPITAL FINANCING ASSISTANCE.—For purposes of the capital financing assistance program established under title XXIV of the Social Security Act (as added by section 7203 of the Health Security Act)—

(1) a facility of a health program of the Service shall be eligible to receive such financing assistance in the same manner as a hospital described in section 2401(b)(1) of such Act;

(2) not less than 3 percent of the amounts available for grants for urgent capital needs under part E of such title shall be reserved for facilities of health programs of the Service;

(3) the waiver provisions of section 2413(c) of such Act shall take into account the financial interests of health programs of the Service when exercised with respect to any such health program;

(4) Indian tribes shall not be required to pledge tribal lands to finance health facility construction or rehabilitation; and

(5) in the case of health programs of the Service, the Secretary shall consult with the Secretary of the Interior in determining the best interests of the affected tribes and the United States.

(d) LEAD PAINT ABATEMENT.—For purposes of making allotments for lead paint abatement activities under subtitle D of title VII of the Health Security Act—

(1) an Indian tribe shall be considered an eligible public entity under section 7301(b) of such Act, and

(2) not less than 3 percent of the amounts available under such subtitle shall be reserved for Indian tribes.

(e) MANAGED CARE PLAN GRANTS.—For purposes of grants for managed care plans under subtitle E of title VII of the Health Security Act, an Indian tribe or tribal organization shall be considered a public organization.

(f) EMERGENCY MEDICAL SERVICES.—For purposes of grants under subtitle F of title VII of the Health Security Act, an Indian tribe or tribal organization shall be considered to be a State meeting the applicable requirements of such subtitle.

(g) PRIORITIES IN BIOMEDICAL RESEARCH.—In establishing priorities for biomedical research under section 7601(c) of the Health Security Act, the Secretary shall give priority to conducting and supporting research based on recommendations made by epidemiology centers established under section 214.

OVERSIGHT STATEMENT

The Committee on Natural Resources will have continuing responsibility for oversight of the implementation of Subtitle D of Title VIII of H.R. 3600 after enactment. No reports or recommendations were received pursuant to rule X, clause 2 of the rules of the House of Representatives.

INFLATIONARY IMPACT, COST, AND BUDGET ACT COMPLIANCE

The Committee received no estimate from the Congressional Budget Office prior the filing of this report.

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